

**ASSEMBLY BILL**

**No. 2802**

**Introduced by Committee on Consumer Protection,  
Governmental Efficiency and Economic Development  
(Davis (Chair), Alquist, Figueroa, Machado, Morrissey,  
Napolitano, Runner, Strom-Martin, Takasugi, and  
Wildman)**

March 12, 1998

An act to amend Sections 101, 130, 144, 2639, 2640, 2655.11, 2655.91, 2661.7, 2665, 2688, 2760.1, 2762, 3452, 7410, 7411, 7413, 7587.8, 7598.7, 7602, 7606, 7607, 7608, 7610, 7616.2, 7618, 7619.2, 7621, 7622.3, 7625, 7626, 7626.5, 7628, 7629, 7631, 7632, 7634, 7635, 7640, 7641, 7642, 7643, 7646, 7647, 7647.5, 7650, 7651, 7661, 7662, 7664, 7665, 7666, 7667, 7668, 7669, 7670, 7685.2, 7685.3, 7686, 7686.5, 7687, 7690, 7693, 7696, 7697, 7700, 7701, 7702, 7704, 7706, 7708, 7709, 7711, 7715, 7718.5, 7725, 7725.2, 7725.5, 7727, 7735, 7737.3, 7737.5, 7740, 7740.5, 8556, 9604, 9605, 9630, 9631, 9650, 9650.1, 9650.2, 9650.4, 9651, 9652, 9652.1, 9653, 9654, 9655, 9656, 9656.1, 9656.2, 9656.3, 9656.4, 9656.5, 9657, 9658, 9659, 9662, 9675, 9676, 9677, 9678, 9679, 9680, 9681, 9682, 9683, 9684, 9686, 9700, 9700.5, 9700.6, 9701, 9702.1, 9702.2, 9702.5, 9703, 9704, 9705, 9709, 9710, 9711, 9712, 9713, 9714, 9715, 9716, 9717, 9718, 9719, 9720, 9726, 9727, 9727.1, 9727.2, 9728, 9729, 9730, 9731, 9735, 9736, 9737, 9740, 9741, 9742, 9745, 9746, 9749.5, 9751, 9752, 9753, 9754, 9755, 9756, 9758, 9759, 9760, 9761, 9762, 9763, 9764, 9765, 9766, 9767, 9769, 9780, 9781, 9782, 9783, 9784, 9785, 9786, 9787, 9789, 9880.2, 9884, 9884.3, 9886.2, and 9889.8 of, to amend the heading of Article 2 (commencing with Section 7610) of Chapter 12 of Division 3 of, to add Sections 7601 and

9625 to, to repeal Sections 7412, 7431.5, 7603, 7604, 7605, 7607.5, 7663, 7687.5, 9626, 9626.5, 9627, 9628, 9629, 9630.5, and 18740 of, to repeal Article 10 (commencing with Section 9889.30) of Chapter 20.3 of Division 3 of, and to repeal and add Section 9603 of, the Business and Professions Code, and to amend Section 15633.5 of the Welfare and Institutions Code, relating to professions and vocations.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2802, as introduced, Committee on Consumer Protection, Governmental Efficiency and Economic Development. Professions and vocations.

Existing law provides for the licensure, regulation, and discipline of various professions and vocations. These provisions are administered by boards and examining committees established within the Department of Consumer Affairs.

This bill would eliminate references to the Board of Funeral Directors and Embalmers and the Cemetery Board and instead refer to the Funeral Directors and Embalmers Program and the Cemetery Program to be administered by the Department of Consumer Affairs.

This bill would prohibit a registered nurse from petitioning to reinstate a license that has been revoked while the nurse is subject to an order of registration as a sex offender, rather than as a mentally disordered sex offender.

This bill would require that hearing aid dispensers who renew their licenses after their expiration, pay a delinquency fee.

This bill would revise certain provisions dealing with the process for appealing citations issued for violation of the Barbering and Cosmetology Program's rules and regulations.

This bill would revise provisions relating to the registration of private patrol operators and alarm company employees. This bill would revise certain provisions relating to the grounds for disciplinary action against funeral directors and embalmers.

This bill would revise certain provisions related to registration exemptions for automotive repair dealers. This



bill would delete the requirement that the State Athletic Commission issue performance cards to all boxers who fight in California.

This bill would add the Division of Investigation to those agencies authorized to be given information relevant to an incident of elder or dependent adult abuse.

This bill would make additional technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 101 of the Business and  
2 Professions Code is amended to read:  
3 101. The department is comprised of:  
4 (a) The Board of Dental Examiners of California.  
5 (b) The Medical Board of California.  
6 (c) The State Board of Optometry.  
7 (d) The California State Board of Pharmacy.  
8 (e) The Veterinary Medical Board.  
9 (f) The Board of Accountancy.  
10 (g) The California State Board of Architectural  
11 Examiners.  
12 (h) The State Board of Barbering and Cosmetology.  
13 (i) The State Board of Registration for Professional  
14 Engineers and Land Surveyors.  
15 (j) The Contractors' State License Board.  
16 (k) The ~~State Board~~ of Funeral Directors and  
17 Embalmers *Program*.  
18 (l) The Structural Pest Control Board.  
19 (m) The Bureau of Home Furnishings and Thermal  
20 Insulation.  
21 (n) The Board of Registered Nursing.  
22 (o) The Board of Behavioral Science Examiners.  
23 (p) The State Athletic Commission.  
24 (q) The Cemetery ~~Board~~ *Program*.  
25 (r) The State Board of Guide Dogs for the Blind.  
26 (s) The Bureau of Security and Investigative Services.  
27 (t) The Court Reporters Board of California.

- 1 (u) The Board of Vocational Nursing and Psychiatric  
2 Technicians.
- 3 (v) The California State Board of Landscape  
4 Architects.
- 5 (w) The Bureau of Electronic and Appliance Repair.
- 6 (x) The Division of Investigation.
- 7 (y) The Bureau of Automotive Repair.
- 8 (z) The State Board of Registration for Geologists and  
9 Geophysicists.
- 10 (aa) The State Board of Nursing Home  
11 Administrators.
- 12 (ab) The Respiratory Care Examining Committee.
- 13 (ac) The Acupuncture Examining Committee.
- 14 (ad) The Board of Psychology.
- 15 (ae) The California Board of Podiatric Medicine.
- 16 (af) The Physical Therapy Board.
- 17 (ag) The Arbitration Review Program.
- 18 (ah) The Committee on Dental Auxiliaries.
- 19 (ai) The Hearing Aid Dispensers Examining  
20 Committee.
- 21 (aj) The Physician Assistant Examining Committee.
- 22 (ak) The Speech-Language Pathology and Audiology  
23 Board.
- 24 (al) The Tax Preparers Program.
- 25 (am) Any other boards, offices, or officers subject to its  
26 jurisdiction by law.
- 27 SEC. 2. Section 130 of the Business and Professions  
28 Code is amended to read:
- 29 130. (a) Notwithstanding any other provision of law,  
30 the term of office of any member of an agency designated  
31 in subdivision (b) shall be for a term of four years expiring  
32 on June 1.
- 33 (b) Subdivision (a) applies to the following boards or  
34 committees:
- 35 (1) Medical Board of California.
- 36 (2) California Board of Podiatric Medicine.
- 37 (3) Physical Therapy Examining Committee.
- 38 (4) Board of Registered Nursing.
- 39 (5) Board of Vocational Nursing and Psychiatric  
40 Technicians.

- 1 (6) State Board of Optometry.
- 2 (7) California State Board of Pharmacy.
- 3 (8) Veterinary Medical Board.
- 4 (9) California Board of Architectural Examiners.
- 5 (10) California State Board of Landscape Architects.
- 6 (11) State Board of Barbering and Cosmetology.
- 7 (12) State Board of Registration for Professional
- 8 Engineers and Land Surveyors.
- 9 (13) Contractors' State License Board.
- 10 (14) State Board of Guide Dogs for the Blind.
- 11 (15) ~~State Board of~~ Funeral Directors and Embalmers
- 12 *Program.*
- 13 (16) Board of Behavioral Science Examiners.
- 14 (17) Structural Pest Control Board.
- 15 (18) Cemetery ~~Board~~ *Program.*
- 16 (19) Bureau of Electronic and Appliance Repair
- 17 Advisory Board.
- 18 (20) Court Reporters Board of California.
- 19 (21) State Board of Registration for Geologists and
- 20 Geophysicists.
- 21 (22) State Athletic Commission.
- 22 (23) Osteopathic Medical Board of California.
- 23 (24) The Respiratory Care Board of California.
- 24 (25) The Acupuncture Examining Committee.
- 25 (26) The Board of Psychology.
- 26 SEC. 3. Section 144 of the Business and Professions
- 27 Code is amended to read:
- 28 144. (a) Notwithstanding any other provision of law,
- 29 an agency designated in subdivision (b) shall require an
- 30 applicant to furnish to the agency a full set of fingerprints
- 31 for purposes of conducting criminal history record
- 32 checks. Any agency designated in subdivision (b) may
- 33 obtain and receive, at its discretion, criminal history
- 34 information from the Department of Justice and the
- 35 United States Federal Bureau of Investigation.
- 36 (b) Subdivision (a) applies to the following boards or
- 37 committees:
- 38 (1) Board of Accountancy.
- 39 (2) State Athletic Commission.
- 40 (3) Board of Behavioral Sciences.

- 1 (4) Court Reporters Board of California.
- 2 (5) State Board of Guide Dogs for the Blind.
- 3 (6) California State Board of Pharmacy.
- 4 (7) Board of Registered Nursing.
- 5 (8) Veterinary Medical Board.
- 6 (9) Registered Veterinary Technician Examining
- 7 Committee.
- 8 (10) Board of Vocational ~~Nurse~~ *Nursing* and
- 9 Psychiatric ~~Technician Examiners~~ *Technicians*.
- 10 (11) Respiratory Care Board.
- 11 (12) Hearing Aid Dispensers Examining Committee.
- 12 (13) Physical Therapy Board of California.
- 13 (14) Physician Assistant Examining Committee.
- 14 (15) Speech-Language Pathology and Audiology
- 15 ~~Examining Committee Board~~.
- 16 (16) Medical Board of California.
- 17 (17) Board of Nursing Home Administrators.
- 18 (18) Board of Optometry.
- 19 (19) Acupuncture Committee.
- 20 (20) Cemetery ~~and Funeral Programs~~ *Program*.
- 21 (21) *Funeral Director and Embalmer Program*.
- 22 (22) Bureau of Security and Investigative Services.
- 23 ~~(22)~~
- 24 (23) Division of Investigation.
- 25 ~~(23)~~
- 26 (24) Board of Psychology.
- 27 SEC. 4. Section 2639 of the Business and Professions
- 28 Code is amended to read:
- 29 2639. Every graduate of an approved physical
- 30 therapist education program who has filed a complete
- 31 application for licensure with the board for the first time
- 32 may, following receipt of a letter of authorization to
- 33 perform as a “physical therapist license applicant,”
- 34 perform as a physical therapist under the direct and
- 35 immediate supervision of a physical therapist licensed in
- 36 this state pending the results of the first licensing
- 37 examination administered for which he or she is eligible
- 38 following graduation from an approved physical therapist
- 39 education program. During this period the applicant shall
- 40 identify himself or herself only as a “physical therapist

1 license applicant.” If the applicant passes the  
2 examination, the physical therapist license applicant  
3 status shall remain in effect until a regular renewable  
4 license is issued, or licensure is denied, by the ~~committee~~  
5 *board*. If the applicant fails the licensing examination, or  
6 if he or she passes the examination but licensure is denied,  
7 the applicant shall be prohibited from performing as a  
8 physical therapist license applicant at any time in the  
9 future.

10 A person shall not be considered a graduate unless he  
11 or she has successfully completed all the clinical training  
12 and internships required for graduation from the  
13 program.

14 If the applicant fails to take the next succeeding  
15 examination without due cause or fails to pass the  
16 examination or receive a license, all privileges under this  
17 section shall terminate upon notice by certified mail,  
18 return receipt requested. An applicant may only qualify  
19 once to perform as a physical therapist license applicant.

20 SEC. 5. Section 2640 of the Business and Professions  
21 Code is amended to read:

22 2640. (a) If the ~~committee~~ *board* uses computer  
23 administered testing for the administration of the  
24 licensing examination, this section shall apply and Section  
25 2639 shall not apply.

26 (b) Every graduate of an approved physical therapist  
27 education program who has filed a complete application  
28 for licensure with the ~~committee~~ *board* for the first time  
29 may, following receipt of a letter of authorization to take  
30 the licensing examination and perform as a “physical  
31 therapist license applicant,” perform as a physical  
32 therapist under the direct and immediate supervision of  
33 a physical therapist licensed in this state, for 90 days  
34 pending the results of the first licensing examination  
35 administered. During this period, the applicant shall  
36 identify himself or herself only as a “physical therapist  
37 license applicant.” If the applicant passes the  
38 examination, the physical therapist license applicant  
39 status shall remain in effect until a regular renewable

1 license is issued, or licensure is denied, by the ~~committee~~  
2 *board*.

3 (c) A person shall not be considered a graduate unless  
4 he or she has successfully completed all the clinical  
5 training and internships required for graduation from the  
6 program.

7 (d) If the applicant fails to take the examination within  
8 90 days or fails to pass the examination or receive a  
9 license, all privileges under this section shall terminate.  
10 An applicant may only qualify once to perform as a  
11 physical therapist license applicant.

12 SEC. 6. Section 2655.11 of the Business and  
13 Professions Code is amended to read:

14 2655.11. A person holding an approval as a physical  
15 therapist assistant issued by the ~~committee~~ *board* may use  
16 the title “physical therapist assistant” or “physical  
17 therapy assistant” or the letters “P.T.A.” or any other  
18 words, letters, or figures that indicate that the person is  
19 an approved physical therapist assistant. No other person  
20 shall be so designated or shall use the term “physical  
21 therapist assistant” or “P.T.A.” The approval as a physical  
22 therapist assistant shall not authorize the use of the prefix  
23 “L.P.T.,” “R.P.T.,” “P.T.,” or “Dr.” or the title “physical  
24 therapist,” “doctor,” or any suffix or affix indicating or  
25 implying that the physical therapist assistant is a physical  
26 therapist or a doctor.

27 SEC. 7. Section 2655.91 of the Business and  
28 Professions Code is amended to read:

29 2655.91. Every graduate of an approved physical  
30 therapist assistant education program who has filed a  
31 complete physical therapist assistant application with the  
32 board for the first time may, following receipt of a letter  
33 of authorization to perform as a “physical therapist  
34 assistant applicant” from the board, assist in the provision  
35 of physical therapy under the direct and immediate  
36 supervision of a licensed physical therapist pending the  
37 results of the first examination administered for which he  
38 or she is eligible following graduation from an approved  
39 physical therapist assistant education program. If the  
40 applicant passes the examination, the physical therapist



1 assistant applicant status shall remain in effect until a  
2 regular renewable approval is issued, or approval is  
3 denied, by the ~~committee~~ *board*. If the applicant fails the  
4 examination, or if he or she passes the examination but  
5 approval is denied, the applicant shall be prohibited from  
6 performing as a physical therapist assistant applicant at  
7 any time in the future.

8 During this period the applicant shall identify himself  
9 or herself only as a “physical therapist assistant  
10 applicant.”

11 If a person assisting in the provision of physical therapy  
12 pursuant to this section fails to take the next succeeding  
13 examination without due cause or fails to pass the  
14 examination or receive approval, all privileges under this  
15 section shall terminate upon notice by certified mail,  
16 return receipt requested. An applicant may only qualify  
17 once to perform as a physical therapist assistant applicant.

18 A student is not eligible to work as a physical therapist  
19 assistant applicant until successful completion of the  
20 clinical experience required for graduation from the  
21 program.

22 SEC. 8. Section 2661.7 of the Business and Professions  
23 Code is amended to read:

24 2661.7. (a) A person whose license or approval has  
25 been revoked or suspended, or who has been placed on  
26 probation, may petition the Physical Therapy ~~Examining~~  
27 ~~Committee~~ *Board of California* for reinstatement or  
28 modification of penalty, including modification or  
29 termination of probation, after a period of not less than  
30 the following minimum periods has elapsed from the  
31 effective date of the decision ordering that disciplinary  
32 action:

33 (1) At least three years for reinstatement of a license  
34 or approval revoked for unprofessional conduct, except  
35 that the ~~committee~~ *board* may, for good cause shown,  
36 specify in a revocation order that a petition for  
37 reinstatement may be filed after two years.

38 (2) At least two years for early termination of  
39 probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license or approval revoked for mental or physical illness, or termination of probation of less than three years.

(b) The petition shall state any facts as may be required by the ~~committee~~ board. The petition shall be accompanied by at least two verified recommendations from physical therapists licensed by the ~~committee~~ board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(c) The petition may be heard by the ~~committee~~ board. The ~~committee~~ board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the committee that shall be acted upon in accordance with the Administrative Procedure Act.

(d) The ~~committee~~, board or the administrative law judge hearing the petition, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued, as the administrative law judge designated in Section 11371 of the Government Code finds necessary.

(e) The administrative law judge designated in Section 11371 of the Government Code when hearing a petition for reinstating a license or approval, or modifying a penalty, may recommend the imposition of any terms and conditions deemed necessary.

(f) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. The ~~committee~~ board may deny, without a hearing or argument, any petition filed pursuant to this section within a period of two years from

1 the effective date of the prior decision following a hearing  
2 under this section.

3 (g) Nothing in this section shall be deemed to alter  
4 Sections 822 and 823.

5 SEC. 9. Section 2665 of the Business and Professions  
6 Code is amended to read:

7 2665. Each diversion evaluation committee has the  
8 following duties and responsibilities:

9 (a) The evaluation of physical therapists and physical  
10 therapist assistants who request participation in the  
11 program and the consideration of any recommendations  
12 from professional consultants on the admission of  
13 applicants to the diversion program.

14 (b) The review and designation of treatment facilities  
15 to which physical therapists and physical therapist  
16 assistants in the diversion program may be referred.

17 (c) The receipt and review of information concerning  
18 physical therapists and physical therapist assistants  
19 participating in the program.

20 (d) Calling meetings as necessary to consider the  
21 requests of physical therapists and physical therapist  
22 assistants to participate in the diversion program, to  
23 consider reports regarding participants in the program,  
24 and to consider any other matters referred to it by the  
25 board.

26 (e) The consideration of whether each participant in  
27 the diversion program may with safety continue or  
28 resume the practice of physical therapy.

29 (f) Setting forth in writing a treatment program for  
30 each participant in the diversion program with  
31 requirements for supervision and surveillance.

32 (g) Holding a general meeting at least twice a year,  
33 which shall be open and public, to evaluate the diversion  
34 program's progress, to prepare reports to be submitted to  
35 the ~~committee~~ board, and to suggest proposals for  
36 changes in the diversion program.

37 (h) For the purposes of Division 3.6 (commencing  
38 with Section 810) of Title 1 of the Government Code, any  
39 member of a diversion evaluation committee shall be  
40 considered a public employee. No board or diversion

1 evaluation committee member, contractor, or agent  
2 thereof, shall be liable for any civil damage because of acts  
3 or omissions which may occur while acting in good faith  
4 in a program established pursuant to this article.

5 SEC. 10. Section 2688 of the Business and Professions  
6 Code, as added by Section 12 of Chapter 830 of the  
7 Statutes of 1996, is amended to read:

8 2688. The amount of fees provided in connection with  
9 licenses or approvals for the practice of physical therapy  
10 is as follows:

11 (a) The application fee for a physical therapist's  
12 license shall be established by the ~~committee~~ *board* at not  
13 more than seventy-five dollars (\$75). The application fee  
14 for an applicant under Section 2653 shall be established by  
15 the committee at not more than one hundred twenty-five  
16 dollars (\$125).

17 (b) The examination and reexamination fees for the  
18 physical therapist examination, physical therapist  
19 assistant examination, and the examination to  
20 demonstrate knowledge of the rules and regulations  
21 related to the practice of physical therapy shall be the  
22 actual cost to the ~~committee~~ *board* of the development  
23 and writing of, or purchase of the examination, and  
24 grading of each written examination, plus the actual cost  
25 of administering each examination.

26 (c) The initial license fee for a physical therapist  
27 license shall be fixed by the examining ~~committee~~ *board*  
28 at not more than one hundred fifty dollars (\$150).

29 (d) The renewal fee for a physical therapist license  
30 shall be fixed by the examining ~~committee~~ *board* at not  
31 more than one hundred fifty dollars (\$150).

32 (e) A fee to be set by the ~~committee~~ *board* of not more  
33 than seventy-five dollars (\$75) shall be charged for each  
34 application for approval as a physical therapist assistant.

35 (f) A fee to be set by the examining ~~committee~~ *board*  
36 of not more than one hundred fifty dollars (\$150) shall be  
37 charged for the issuance of and for the renewal of each  
38 approval as a physical therapist assistant.

39 (g) Notwithstanding Section 163.5, the delinquency  
40 fee shall be 50 percent of the renewal fee in effect.



1 (h) The duplicate wall certificate fee shall not exceed  
2 twenty dollars (\$20). The duplicate renewal receipt fee  
3 shall not exceed twenty dollars (\$20).

4 (i) The endorsement or letter of good standing fee is  
5 thirty dollars (\$30).

6 (j) The amount of any fee established by statute or by  
7 the ~~committee~~ *board* pursuant to statutory authority that  
8 is in effect when this section becomes operative on  
9 January 1, 1999, pursuant to subdivision (k), shall remain  
10 in effect after that operative date, unless the ~~committee~~  
11 *board* establishes a fee amount that is less or greater than  
12 the previously established fee amount as permitted by  
13 law.

14 (k) This section shall become operative on January 1,  
15 1999.

16 SEC. 11. Section 2760.1 of the Business and  
17 Professions Code is amended to read:

18 2760.1. (a) A registered nurse whose license has been  
19 revoked, or suspended or who has been placed on  
20 probation may petition the board for reinstatement or  
21 modification of penalty, including reduction or  
22 termination of probation, after a period not less than the  
23 following minimum periods has elapsed from the  
24 effective date of the decision ordering that disciplinary  
25 action, or if the order of the board or any portion of it is  
26 stayed by the board itself or by the superior court, from  
27 the date the disciplinary action is actually implemented  
28 in its entirety:

29 (1) Except as otherwise provided in this section, at  
30 least three years for reinstatement of a license that was  
31 revoked, except that the board may, in its sole discretion,  
32 specify in its order a lesser period of time provided that  
33 the period shall be not less than one year.

34 (2) At least two years for early termination of a  
35 probation period of three years or more.

36 (3) At least one year for modification of a condition, or  
37 reinstatement of a license revoked for mental or physical  
38 illness, or termination of probation of less than three  
39 years.

1 (b) The board shall give notice to the Attorney  
2 General of the filing of the petition. The petitioner and  
3 the Attorney General shall be given timely notice by  
4 letter of the time and place of the hearing on the petition,  
5 and an opportunity to present both oral and documentary  
6 evidence and argument to the board. The petitioner shall  
7 at all times have the burden of proof to establish by clear  
8 and convincing evidence that he or she is entitled to the  
9 relief sought in the petition.

10 (c) The hearing may be continued from time to time  
11 as the board deems appropriate.

12 (d) The board itself shall hear the petition and the  
13 administrative law judge shall prepare a written decision  
14 setting forth the reasons supporting the decision.

15 (e) The board may grant or deny the petition, or may  
16 impose any terms and conditions that it reasonably deems  
17 appropriate as a condition of reinstatement or reduction  
18 of penalty.

19 (f) The petitioner shall provide a current set of  
20 fingerprints accompanied by the necessary  
21 fingerprinting fee.

22 (g) No petition shall be considered while the  
23 petitioner is under sentence for any criminal offense,  
24 including any period during which the petitioner is on  
25 court-imposed probation or parole, or subject to an order  
26 of registration ~~as a mentally disordered sex offender~~  
27 pursuant to Section 290 of the Penal Code. No petition  
28 shall be considered while there is an accusation or  
29 petition to revoke probation pending against the  
30 petitioner.

31 (h) Except in those cases where the petitioner has  
32 been disciplined for violation of Section 822, the board  
33 may in its discretion deny without hearing or argument  
34 any petition that is filed pursuant to this section within a  
35 period of two years from the effective date of a prior  
36 decision following a hearing under this section.

37 SEC. 12. Section 2762 of the Business and Professions  
38 Code is amended to read:

39 2762. In addition to other acts constituting  
40 unprofessional conduct within the meaning of this

chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug *or dangerous device* as defined in ~~Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code~~ *Section 4022*.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug *or dangerous device* as defined in ~~Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code~~ *Section 4022*, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

1 SEC. 13. Section 3452 of the Business and Professions  
2 Code is amended to read:

3 3452. Except as otherwise provided in this chapter, an  
4 expired license may be renewed at any time within three  
5 years after its expiration on filing of an application for  
6 renewal on a form prescribed by the committee, and  
7 payment of all accrued and unpaid renewal fees. If the  
8 license is renewed ~~more than 30 days~~ after its expiration  
9 the licensee, as a condition precedent to renewal, shall  
10 also pay the delinquency fee prescribed by this chapter.  
11 Renewal under this section shall be effective on the date  
12 on which the application is filed, on the date on which the  
13 renewal fee is paid, or on the date on which the  
14 delinquency fee, if any, is paid, whichever last occurs. If  
15 so renewed, the license shall continue in effect through  
16 the date provided in Section 3451 which next occurs after  
17 the effective date of the renewal, when it shall expire if  
18 it is not again renewed.

19 SEC. 14. Section 7410 of the Business and Professions  
20 Code is amended to read:

21 7410. Persons to whom a notice of violation or a  
22 citation is issued and an administrative fine assessed may  
23 appeal the ~~administrative fine citation~~ to a disciplinary  
24 review committee established by regulation by the ~~board~~  
25 ~~director~~. All appeals of ~~administrative fines~~ shall be  
26 submitted in writing to the ~~board~~ program within 30 days  
27 of the date the ~~notice of violation or a citation~~ was issued.  
28 Appeals of ~~administrative fines which citations that~~ are  
29 not submitted in a timely manner shall be rejected.

30 After a timely appeal has been filed with the ~~board~~  
31 ~~program~~, the administrative fine, *if any*, shall be stayed  
32 until the appeal has been adjudicated.

33 Persons appealing a ~~notice of violation for which an~~  
34 ~~administrative fine has been assessed citation~~, or their  
35 appointed representatives, shall appear in person before  
36 the ~~board or its designated representative, or an~~  
37 ~~administrative law judge disciplinary review committee~~.  
38 The appellant may present written or oral evidence  
39 relating to the facts and circumstances relating to the  
40 ~~notice of violation for which an administrative fine~~



1 citation was issued. Following an appeal before a  
2 disciplinary review committee, the disciplinary review  
3 committee shall issue a decision, based on findings of fact,  
4 which may affirm, reduce, dismiss, or alter any charges  
5 filed in the citation. In no event shall the administrative  
6 fine be increased. The appellant shall be provided with a  
7 written copy of the disciplinary review committee's  
8 decision relating to the appeal.

9 SEC. 15. Section 7411 of the Business and Professions  
10 Code is amended to read:

11 ~~7411. If a licensee notifies the board that he or she~~  
12 ~~intends to contest a citation, the board shall afford an~~  
13 ~~opportunity for a hearing. The board~~ Persons receiving a  
14 decision from a disciplinary review committee may  
15 appeal the decision by filing a written request, within 30  
16 days after receipt of the decision, to the program  
17 administrator. Following a hearing to appeal the decision  
18 of a disciplinary review committee, the director shall  
19 thereafter issue a decision, based on findings of fact,  
20 affirming, modifying or vacating the citation or penalty,  
21 or directing other appropriate relief. ~~The proceedings~~  
22 ~~under this section~~ In no event shall the administrative  
23 fine be increased. The hearing to contest the decision of  
24 a disciplinary review committee shall be conducted in  
25 accordance with Chapter 5 (commencing with Section  
26 11500) of Part 1 of Division 3 of Title 2 of the Government  
27 Code, and the ~~board~~ director shall have all powers  
28 granted therein.

29 SEC. 16. Section 7412 of the Business and Professions  
30 Code is repealed.

31 ~~7412. The board or its representative who conducts~~  
32 ~~the appeal hearing may, after the appeal has been~~  
33 ~~concluded, affirm, reduce, dismiss, or alter any charges~~  
34 ~~filed in the notice of violation or any penalties assessed.~~  
35 In no event shall the infractions in the citation or notice  
36 of violation or the administrative fine be increased.

37 ~~The appellant shall be provided with a written copy of~~  
38 ~~the board's decision relating to the appeal. All decisions~~  
39 ~~rendered by the board or its representative under this~~  
40 ~~section shall become final and there shall be no~~

1 ~~administrative appeal, except as otherwise provided by~~  
2 ~~law.~~

3 SEC. 17. Section 7413 of the Business and Professions  
4 Code is amended to read:

5 7413. Appeals of ~~administrative fines citations~~ not  
6 filed in a timely manner or failure of the appellant or the  
7 appellant's representative to appear before the ~~board~~  
8 ~~disciplinary review committee~~ at the appointed time  
9 except when good cause is shown, shall cause the  
10 ~~administrative fine citation~~ to become final and there  
11 shall be no administrative appeal except as otherwise  
12 provided by law.

13 SEC. 18. Section 7431.5 of the Business and  
14 Professions Code is repealed.

15 ~~7431.5. On and after January 1, 1991, jurisdiction for~~  
16 ~~disciplinary action commenced by the board against~~  
17 ~~licensed schools of cosmetology or electrology, and~~  
18 ~~pending final disposition in accordance with the terms of~~  
19 ~~Chapter 5 (commencing with Section 11500) of Part 1 of~~  
20 ~~Division 3 of Title 2 of the Government Code, shall be~~  
21 ~~transferred to the Council for Private Postsecondary and~~  
22 ~~Vocational Education. The council may proceed to refile,~~  
23 ~~recharge, or continue to prosecute in any appropriate~~  
24 ~~forum, causes for license discipline previously~~  
25 ~~commenced by the board which constitute grounds for~~  
26 ~~license discipline by the council. All investigative files~~  
27 ~~pertaining to open and pending investigations of schools~~  
28 ~~previously licensed by the board shall be transferred to~~  
29 ~~the council.~~

30 SEC. 19. Section 7587.8 of the Business and  
31 Professions Code is amended to read:

32 7587.8. The director may assess fines for the following  
33 acts pursuant to Article 4 (commencing with Section  
34 7583) only as follows:

35 (a) Violation of subdivisions (a), (b), and (c) of  
36 Section 7583.2; twenty-five dollars (\$25) per violation.

37 (b) Violation of subdivision (e) of Section 7583.2;  
38 ~~twelve dollars (\$12) per violation for the first 10 violations~~  
39 ~~and fifty dollars (\$50) per violation~~ *fifty-seven dollars*  
40 *(\$57) for each violation thereafter.*

(c) Violation of subdivisions (g) and (h) of Section 7583.2; twenty-five dollars (\$25) for the first violation and one hundred dollars (\$100) per violation for each violation thereafter.

(d) Violation of subdivision (d) of Section 7583.2; one hundred dollars (\$100) per violation.

(e) Violation of subdivision (f) of Section 7583.2; two hundred fifty dollars (\$250) per violation.

SEC. 20. Section 7598.7 of the Business and Professions Code is amended to read:

7598.7. ~~An~~ (a) *Except as provided in subdivision (b), an employee of a licensee may be assigned to work with a temporary application for registration until the bureau issues a registration card or denies the application for registration. A temporary application for registration shall be a copy of the initial application. Any alarm agent employee assigned to work must carry either a temporary application for registration or a valid registration. A temporary application for registration shall in no event be valid for more than 120 days. However, the director may extend the expiration date beyond the 120 days if there is an abnormal delay in processing applications for registration. For purposes of this section, the 120-day period shall commence on the date the applicant signs and submits the application.*

(b) *Notwithstanding subdivision (a), an employee who has been convicted of a crime prior to applying for registration shall not be issued a temporary application for registration and shall not be assigned to work as an alarm agent until the bureau issues a permanent registration card. This subdivision shall apply only if the applicant for registration has disclosed the conviction to the bureau on his or her application form, or if the fact of the conviction has come to the attention of the bureau through official court or other governmental documents.*

SEC. 21. Section 7601 is added to the Business and Professions Code, to read:

7601. The following terms as used in this chapter shall have meanings expressed in this section:

1 (a) "Department" means the Department of  
2 Consumer Affairs.

3 (b) "Director" means the Director of Consumer  
4 Affairs.

5 (c) "Program" means the Cemetery and Funeral  
6 Directors and Embalmers Programs.

7 SEC. 22. Section 7602 of the Business and Professions  
8 Code is amended to read:

9 ~~7602. Members of the board, except the public~~  
10 ~~members, shall only be appointed from persons who are~~  
11 ~~licensed as funeral directors or embalmers and who have~~  
12 ~~had a minimum of five consecutive years' experience in~~  
13 ~~funeral directing or embalming immediately preceding~~  
14 ~~their appointment. Members of the board, including the~~  
15 ~~public members, shall not be financially interested,~~  
16 ~~directly or indirectly, in any institution engaged in~~  
17 ~~embalming or funeral directing instruction and shall not~~  
18 ~~be members of the faculty of such an institution.~~

19 ~~The public members shall not be licentiates of the~~  
20 ~~board.~~ *There are in the department, the Cemetery and*  
21 *Funeral Directors and Embalmers Programs, under the*  
22 *supervision and control of the director.*

23 *The director may appoint a chief at a salary to be fixed*  
24 *and determined by the director, with the approval of the*  
25 *Director of Finance. The duty of enforcing and*  
26 *administering this chapter is vested in the chief, and he*  
27 *or she is responsible to the director therefor. The chief*  
28 *shall serve at the pleasure of the director.*

29 *Every power granted or duty imposed upon the*  
30 *director under this chapter may be exercised or*  
31 *performed in the name of the director by a deputy*  
32 *director or by the chief, subject to such conditions and*  
33 *limitations as the director may prescribe.*

34 SEC. 23. Section 7603 of the Business and Professions  
35 Code is repealed.

36 ~~7603. Members of the board shall be appointed for a~~  
37 ~~term of four years and they shall hold office until the~~  
38 ~~appointment and qualification of their successors or until~~  
39 ~~one year shall have elapsed since the expiration of the~~  
40 ~~term for which they were appointed, whichever first~~

1 ~~occurs. No person shall serve as a member of the board for~~  
2 ~~more than two consecutive terms, but this provision shall~~  
3 ~~not apply to any member in office at the time this~~  
4 ~~provision takes effect.~~

5 ~~Vacancies occurring shall be filled by appointment for~~  
6 ~~the unexpired term.~~

7 ~~Each appointment shall be for a four-year term~~  
8 ~~expiring June 1 of the fourth year following the year in~~  
9 ~~which the previous term expired.~~

10 ~~The Governor shall appoint one of the public members~~  
11 ~~and the two members qualified as provided in Section~~  
12 ~~7602. The Senate Rules Committee and the Speaker of the~~  
13 ~~Assembly shall each appoint a public member, and their~~  
14 ~~initial appointment shall be made to fill, respectively, the~~  
15 ~~first and second public member vacancies which occur on~~  
16 ~~or after January 1, 1983.~~

17 SEC. 24. Section 7604 of the Business and Professions  
18 Code is repealed.

19 ~~7604. The Governor may remove any member of the~~  
20 ~~board for incompetency or improper conduct.~~

21 SEC. 25. Section 7605 of the Business and Professions  
22 Code is repealed.

23 ~~7605. The board shall meet annually, and at such other~~  
24 ~~times as it may determine.~~

25 ~~It shall elect from its members, each for a term of one~~  
26 ~~year, a president, a vice president, and a secretary.~~

27 ~~Each member of the board shall receive a per diem and~~  
28 ~~expenses as provided in Section 103.~~

29 ~~The secretary shall not receive a salary for acting in~~  
30 ~~such capacity.~~

31 SEC. 26. Section 7606 of the Business and Professions  
32 Code is amended to read:

33 ~~7606. The board~~ *program* ~~may, pursuant to the~~  
34 ~~provisions of the Administrative Procedure Act, adopt~~  
35 ~~and enforce reasonably necessary rules and regulations~~  
36 ~~relating to:~~

- 37 (a) The practice of embalming;  
38 (b) The business of a funeral director;

1 (c) The sanitary conditions of places where such  
2 practice or business is conducted with particular regard  
3 to plumbing, sewage, ventilation and equipment;

4 (d) Specifying conditions for approval of funeral  
5 establishments for apprentices and for approval of  
6 embalming schools;

7 (e) The scope of examinations;

8 (f) Carrying out generally the various provisions of  
9 this chapter for the protection of the peace, health, safety,  
10 welfare and morals of the public.

11 SEC. 27. Section 7607 of the Business and Professions  
12 Code is amended to read:

13 7607. The ~~board~~ *program* may inspect the premises in  
14 which the business of a funeral director is conducted or  
15 where embalming is practiced.

16 SEC. 28. Section 7607.5 of the Business and  
17 Professions Code is repealed.

18 ~~7607.5. The board may appoint a person exempt from~~  
19 ~~civil service who shall be designated as an executive~~  
20 ~~officer and who shall exercise the powers and perform the~~  
21 ~~duties delegated by the board and vested in him or her by~~  
22 ~~this chapter.~~

23 ~~This section shall become inoperative on July 1, 1997,~~  
24 ~~and, as of January 1, 1998, is repealed, unless a later~~  
25 ~~enacted statute, which becomes effective on or before~~  
26 ~~January 1, 1998, deletes or extends the dates on which it~~  
27 ~~becomes inoperative and is repealed.~~

28 SEC. 29. Section 7608 of the Business and Professions  
29 Code is amended to read:

30 7608. The Director of Consumer Affairs may employ  
31 and appoint all employees necessary properly to  
32 administer the work of the ~~board and the work of the~~  
33 ~~department~~ *program*, in accordance with civil service  
34 regulations.

35 ~~Upon recommendation of the board, and with~~ *With* the  
36 approval of the Director of Finance, and, subject to the  
37 provisions of Section 159.5, the ~~Director of Consumer~~  
38 ~~Affairs~~ *program* shall employ investigators and attorneys  
39 to assist the ~~board~~ *program* in prosecuting violations of  
40 this chapter, whose compensation and expenses shall be

1 payable only out of the State Funeral Directors and  
2 Embalmers Fund.

3 SEC. 30. The heading of Article 2 (commencing with  
4 Section 7610) of Chapter 12 of Division 3 of the Business  
5 and Professions Code is amended to read:

6  
7 Article 2. Funeral *Establishments and* Directors  
8

9 SEC. 31. Section 7610 of the Business and Professions  
10 Code is amended to read:

11 7610. All suits or actions commenced in the superior  
12 court against the ~~board~~ *department* shall be filed and  
13 tried either in the County of Sacramento, or in the county  
14 of the residence of the plaintiff or petitioner, or in the  
15 county where the act occurred, which is the basis of the  
16 suit or action.

17 SEC. 32. Section 7616.2 of the Business and  
18 Professions Code is amended to read:

19 7616.2. A licensed funeral establishment shall at all  
20 times employ a licensed funeral director to manage,  
21 direct, or control its business or profession.  
22 Notwithstanding any other provisions of this chapter,  
23 licensed funeral establishments within close geographical  
24 proximity of each other, may request the ~~board~~ *program*  
25 to allow a licensed funeral director to manage, direct, or  
26 control the business or profession of more than one  
27 facility.

28 SEC. 33. Section 7618 of the Business and Professions  
29 Code is amended to read:

30 7618. An application for a funeral director's license  
31 shall be written on a form provided by the ~~board~~  
32 *program*, verified by the applicant, accompanied by the  
33 fee fixed by this chapter and filed at its Sacramento office.

34 SEC. 34. Section 7619.2 of the Business and  
35 Professions Code is amended to read:

36 7619.2. The ~~board~~ *program* shall grant a funeral  
37 director's license to any applicant who complies with this  
38 article, notwithstanding Section 7619, if the applicant can  
39 demonstrate that he or she has complied with Section  
40 7622 on or before July 1, 1999.

1 SEC. 35. Section 7621 of the Business and Professions  
2 Code is amended to read:

3 7621. The applicant shall also furnish the ~~board~~  
4 *program* with satisfactory proof that the facility in which  
5 he or she intends to conduct business as a funeral director  
6 is or will be constructed, equipped and maintained in all  
7 respects as a licensed funeral establishment as defined in  
8 this chapter.

9 SEC. 36. Section 7622.3 of the Business and  
10 Professions Code is amended to read:

11 7622.3. The ~~board~~ *program* shall adopt regulations  
12 requiring continuing education of 14 hours every two  
13 years for licensed funeral directors.

14 SEC. 37. Section 7625 of the Business and Professions  
15 Code is amended to read:

16 7625. Upon receipt of an application for a license, the  
17 ~~board~~ *program* shall cause an investigation to be made of  
18 the physical status or plans and specifications of the  
19 proposed funeral establishment, and of the other  
20 qualifications required of the applicant under this  
21 chapter, and for this purpose may subpoena witnesses,  
22 administer oaths, and take testimony.

23 The ~~board~~ *program* shall grant a license if it finds that  
24 the proposed funeral establishment is or will be  
25 constructed and equipped as required by this chapter and  
26 that the applicant is qualified in all other respects as  
27 required by this chapter.

28 SEC. 38. Section 7626 of the Business and Professions  
29 Code is amended to read:

30 7626. The ~~board~~ *program* shall examine and pass upon  
31 the qualifications of the applicant as to ability and  
32 experience before passing upon the physical status or  
33 plans and specifications of the proposed funeral  
34 establishment.

35 SEC. 39. Section 7626.5 of the Business and  
36 Professions Code is amended to read:

37 7626.5. Where a hearing is held to determine whether  
38 an application for a license should be granted, the  
39 proceeding shall be conducted in accordance with  
40 Chapter 5 of Part 1 of Division 3 of Title 2 of the





1 Government Code, and the ~~board~~ *program* shall have all  
2 of the powers granted therein.

3 SEC. 40. Section 7628 of the Business and Professions  
4 Code is amended to read:

5 7628. Any person, partnership, association,  
6 corporation, or other organization desiring to change the  
7 location of his, hers, or its licensed funeral establishment  
8 shall apply therefor on forms furnished by the ~~board~~  
9 *program* and shall include a fee fixed by this chapter.

10 The application shall be granted by the ~~executive~~  
11 ~~officer~~ *program* upon the filing with the ~~board~~ *program*  
12 of a favorable report, ~~approved by the executive officer,~~  
13 ~~from a board member, except a public member, or an~~  
14 ~~inspector concerning the physical status or plans and~~  
15 ~~specifications of the proposed licensed funeral~~  
16 ~~establishment to the effect that it conforms to the~~  
17 ~~requirements of this article. Every application so granted~~  
18 ~~shall be submitted for approval at the next meeting of the~~  
19 ~~board after the issuance thereof, and no application for~~  
20 ~~change of place of business shall become permanent until~~  
21 ~~approved by the board.~~

22 SEC. 41. Section 7629 of the Business and Professions  
23 Code is amended to read:

24 7629. No funeral establishment shall be conducted or  
25 held forth as being conducted or advertised as being  
26 conducted under any name which might tend to mislead  
27 the public or which would be sufficiently like the name  
28 of any other licensed funeral director so as to constitute  
29 an unfair method of competition.

30 Any funeral director desiring to change the name  
31 appearing on his *or her* license may do so by applying to  
32 the ~~board~~ *program* and paying the fee fixed by this  
33 chapter.

34 SEC. 42. Section 7631 of the Business and Professions  
35 Code is amended to read:

36 7631. In case of the death of a licensed funeral  
37 director, who leaves an established business as part or all  
38 of the assets of his *or her* estate, the ~~board~~ *program* may  
39 issue a special temporary license to his *or her* legal  
40 representative, unless the legal representative has

1 committed acts or crimes constituting grounds for denial  
2 of licensure under Section 480.

3 SEC. 43. Section 7632 of the Business and Professions  
4 Code is amended to read:

5 7632. Every funeral director shall cause all ~~dead~~  
6 human ~~bodies~~ *remains* embalmed in his *or hers* funeral  
7 establishment to be embalmed by a regularly licensed  
8 embalmer, or by an apprentice embalmer under the  
9 supervision of a regularly licensed embalmer.

10 SEC. 44. Section 7634 of the Business and Professions  
11 Code is amended to read:

12 7634. Notwithstanding any other provision of law, a  
13 licensed embalmer, at the request of a licensed physician,  
14 may remove tissue from a ~~dead human body~~ *remains* for  
15 transplant, or therapeutic, or scientific purposes specified  
16 in, and pursuant to, the provisions of the Uniform  
17 Anatomical Gift Act (Chapter 3.5 (commencing with  
18 Section 7150) of Part 1 of Division 7 of the Health and  
19 Safety Code), if such embalmer has completed a course  
20 in tissue removal for transplant, or therapeutic, or  
21 scientific purposes approved by the Medical Board of  
22 California of the State of California.

23 SEC. 45. Section 7635 of the Business and Professions  
24 Code is amended to read:

25 7635. (a) Any person employed by, or an agent of, a  
26 licensed funeral establishment, who consults with the  
27 family or representatives of a family of a deceased person  
28 for the purpose of arranging for services as set forth in  
29 subdivision (a) of Section 7615, shall receive documented  
30 training and instruction which results in a demonstrated  
31 knowledge of all applicable federal and state laws, rules,  
32 and regulations including those provisions dealing with  
33 vital statistics, the coroner, anatomical gifts, and other  
34 laws, rules, and regulations pertaining to the duties of a  
35 funeral director. A written outline of the training  
36 program, including documented evidence of the training  
37 time, place, and participants, shall be maintained in the  
38 funeral establishment and shall be available for  
39 inspection and comment by an inspector of the ~~board~~  
40 *department*.

(b) This section shall not apply to anyone who has successfully passed the funeral director's examination pursuant to Section 7622.

SEC. 46. Section 7640 of the Business and Professions Code is amended to read:

7640. An embalmer is one who is duly qualified to disinfect or preserve ~~dead~~ human ~~bodies~~ *remains* by the injection or external application of antiseptics, disinfectants or preservative fluids; to prepare human bodies for transportation which are dead of contagious or infectious diseases; and to use derma surgery or plastic art for restoring mutilated features; and who is duly licensed as an embalmer under the laws of the State of California.

SEC. 47. Section 7641 of the Business and Professions Code is amended to read:

7641. It is unlawful for any person to embalm a body, or engage in, or hold himself or herself out as engaged in practice as an embalmer, unless he or she is licensed by the ~~board~~ *department*; provided, however, that this section shall have no effect on students and instructors of embalming in embalming colleges approved by the ~~board~~ *program*.

SEC. 48. Section 7642 of the Business and Professions Code is amended to read:

7642. An application for an embalmer's license shall be written on a form provided by the ~~board~~ *program*, verified by the applicant, and accompanied by the fee fixed by this chapter.

SEC. 49. Section 7643 of the Business and Professions Code is amended to read:

7643. In order to qualify for a license as an embalmer, the applicant shall comply with all of the following requirements:

(a) Be over 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Furnish proof showing completion of a high school course or instead he or she may furnish the ~~board~~ *program* with evidence that he or she has been licensed and has practiced as an embalmer for a minimum of three

1 years within the seven years preceding his or her  
2 application in any other state or country and that the  
3 license has never been suspended or revoked for  
4 unethical conduct.

5 (d) Have completed at least two years of  
6 apprenticeship under an embalmer licensed and  
7 engaged in practice as an embalmer in this state in a  
8 funeral establishment which shall have been approved  
9 for apprentices by the ~~board~~ *program* and while so  
10 apprenticed shall have assisted in embalming not fewer  
11 than 100 human remains; provided, however, that a  
12 person who has been licensed and has practiced as an  
13 embalmer for a minimum of three years within the seven  
14 years preceding his or her application in any other state  
15 or country and whose license has never been suspended  
16 or revoked for unethical conduct shall not be required to  
17 serve any apprenticeship in this state.

18 (e) Have successfully completed a course of  
19 instruction of not less than one academic year in an  
20 embalming school approved by the ~~board~~ *program* and  
21 accredited by the American Board of Funeral Service  
22 Education.

23 SEC. 50. Section 7646 of the Business and Professions  
24 Code is amended to read:

25 7646. The ~~board~~ *program* shall require the applicant  
26 to pass an examination, which shall include the following  
27 subjects:

28 (a) Theory and practice of embalming.

29 (b) Anatomy, including histology, embryology and  
30 dissection.

31 (c) Pathology and bacteriology.

32 (d) Hygiene, including sanitation and public health.

33 (e) Chemistry, including toxicology.

34 (f) Restorative art, including plastic surgery and  
35 demisurgery.

36 (g) Laws, rules and regulations of the ~~board~~ *program*,  
37 including those sections of the Health and Safety Code  
38 which pertain to the funeral industry.

39 SEC. 51. Section 7647 of the Business and Professions  
40 Code is amended to read:



1 7647. The ~~board~~ *program* shall ~~hold~~ *examine*  
2 *applicants for embalmer's licenses* at least ~~one meeting~~  
3 ~~once annually, for the purpose of examining applicants~~  
4 ~~for embalmer's licenses.~~

5 Examinations shall be held at such times and places as  
6 may be determined by the ~~board~~ *program*.

7 Notice of the time and place of such examinations shall  
8 be given as determined by the ~~board~~ *program*.

9 SEC. 52. Section 7647.5 of the Business and  
10 Professions Code is amended to read:

11 7647.5. Where a hearing is held to determine whether  
12 an application for a license should be granted, the  
13 proceeding shall be conducted in accordance with  
14 Chapter 5 (*commencing with Section 11500*) of Part 1 of  
15 Division 3 of Title 2 of the Government Code, and the  
16 ~~board~~ *program* shall have all of the powers granted  
17 therein.

18 SEC. 53. Section 7650 of the Business and Professions  
19 Code is amended to read:

20 7650. From time to time, the ~~board~~ *program* may  
21 examine the requirements for the issuance of licenses to  
22 embalmers in other States of the United States and cause  
23 a record to be kept of those States in which standards are  
24 maintained for embalmers, not lower than those  
25 provided in this chapter.

26 SEC. 54. Section 7651 of the Business and Professions  
27 Code is amended to read:

28 7651. The ~~board~~ *program* shall adopt regulations  
29 requiring continuing education of 14 hours every two  
30 years for licensed embalmers.

31 SEC. 55. Section 7661 of the Business and Professions  
32 Code is amended to read:

33 7661. An application for registration as an embalmer's  
34 apprentice shall be made upon a form provided by the  
35 ~~board~~ *program*, verified by the applicant and  
36 accompanied by the fee fixed by this chapter.

37 SEC. 56. Section 7662 of the Business and Professions  
38 Code is amended to read:

1 7662. In order to qualify as an apprentice embalmer,  
2 an applicant shall comply with all of the following  
3 requirements:

4 (a) Be over 18 years of age.

5 (b) Not have committed acts or crimes constituting  
6 grounds for denial of licensure under Section 480.

7 (c) Furnish proof showing completion of a high school  
8 course or instead he or she may furnish the ~~board~~  
9 *program* with evidence that he or she has been licensed  
10 and has practiced as an embalmer for a minimum of three  
11 years within the seven years preceding his or her  
12 application in any other state or country and that the  
13 license has never been suspended or revoked for  
14 unethical conduct.

15 SEC. 57. Section 7663 of the Business and Professions  
16 Code is repealed.

17 ~~7663. Whenever it appears to the executive officer of~~  
18 ~~the board that no reason exists for the denial of an~~  
19 ~~application and that the application is regular upon its~~  
20 ~~face, the executive officer may issue a certificate of~~  
21 ~~apprenticeship to the applicant, without submitting the~~  
22 ~~application to the board.~~

23 ~~If, however, any doubt exists as to the qualifications of~~  
24 ~~the applicant, the application shall be submitted to the~~  
25 ~~board and may be accepted or, after notice and hearing,~~  
26 ~~rejected by a majority vote of the board.~~

27 SEC. 58. Section 7664 of the Business and Professions  
28 Code is amended to read:

29 7664. Certificates of apprenticeship issued pursuant  
30 to this article shall expire when the holder has been issued  
31 a license as an embalmer, or six years from the date of  
32 registration, whichever first occurs. The certificates may  
33 not be renewed, but an apprentice embalmer who has not  
34 completed his or her term of apprenticeship at the time  
35 his or her certificate expires may apply for reregistration  
36 upon compliance with Section 7661. The ~~board~~ *program*  
37 may, when the circumstances warrant, allow an  
38 apprentice credit under a reregistration for the time  
39 actually served under a previous registration, but no  
40 reregistration shall have the effect of continuing the term

1 of apprenticeship beyond the period specified in Sections  
2 7666 and 7666.5.

3 SEC. 59. Section 7665 of the Business and Professions  
4 Code is amended to read:

5 7665. All registered apprentice embalmers ~~shall be~~  
6 ~~under the supervision and control of the board and~~ shall  
7 comply with the following requirements during their  
8 period of apprenticeship:

9 (a) Shall file a report of apprenticeship as follows:

10 (1) On or before January 15 of each year covering the  
11 period of apprenticeship ending as of December 31  
12 preceding.

13 (2) Upon change of supervising embalmer or  
14 employer, or both.

15 (3) Upon completion of apprenticeship.

16 (4) Upon application for leave of absence for a period  
17 in excess of 15 days.

18 (5) Upon suspending apprenticeship to attend  
19 embalming college.

20 (6) Upon application for reregistration after  
21 suspension or revocation of registration where complete  
22 report of previous registration has not been filed.

23 (b) The information contained in the report shall  
24 consist of a concise summary of the work done by the  
25 apprentice during the period covered thereby, shall be  
26 verified by the apprentice and certified to as correct by  
27 his or her supervising embalmer and employer. Upon  
28 request of the ~~board~~ *program*, each funeral director in  
29 whose establishment an apprenticeship is being, or has  
30 been, served, and each embalmer under whose  
31 instruction or supervision an apprenticeship is being, or  
32 has been served, shall promptly file with the ~~board~~  
33 *program* a report or such other information as may be  
34 requested relating to the apprenticeship. Failure to  
35 comply with the request is cause for revocation by the  
36 ~~board~~ *program* of the approval granted to the funeral  
37 director or embalmer for the training of apprentices and  
38 is also a cause for disciplinary action against the funeral  
39 director or embalmer.

1 SEC. 60. Section 7666 of the Business and Professions  
2 Code is amended to read:

3 7666. (a) The term of apprenticeship shall be two  
4 years; provided, however, that if an apprentice after  
5 having served his or her apprenticeship fails to pass the  
6 examination for an embalmer's license he or she may  
7 continue for one additional term of apprenticeship,  
8 which shall be the maximum apprenticeship permitted  
9 and provided further that an apprentice may, upon filing  
10 an application therefor, be permitted to continue the  
11 apprenticeship for a period not to exceed six months, if  
12 approved, for any of the following reasons:

13 (1) While awaiting the processing of applications  
14 submitted to the ~~board~~ *program*.

15 (2) While awaiting notification of grades of  
16 embalmers' examinations—~~given~~ *administered* by the  
17 ~~board~~ *program*.

18 (3) While awaiting the commencement of a class of an  
19 embalming school or college when the apprentice  
20 intends to enroll in the school or college.

21 Applications filed for an extension of apprenticeship  
22 shall be filed by the applicant with the ~~Sacramento office~~  
23 ~~of the board~~ *program* not ~~less~~ *fewer* than 15 days prior to  
24 the date the applicant requests the extension to  
25 commence.

26 (b) Terms of apprenticeship may be served before,  
27 after, or divided by the embalming college course at the  
28 option of the apprentice; provided, however, that the  
29 term of apprenticeship must be completed, excluding  
30 time spent in active military service, within six years from  
31 the date of original registration, or from the date an  
32 apprentice successfully passes the examination for  
33 embalmer's license required in Section 7646 of this code,  
34 whichever first occurs, and provided further that if the  
35 term of apprenticeship is not completed within the  
36 six-year period, the ~~board~~ *program* may require that the  
37 applicant serve the additional term of apprenticeship, not  
38 to exceed two years.

39 (c) A student attending an embalming college may  
40 register as an apprentice during his or her college term



1 but shall receive no credit for apprenticeship on the term  
2 required by this code unless he or she is also a full-time  
3 employee of a funeral director.

4 (d) An apprentice while serving his or her required  
5 term of apprenticeship shall be a full-time employee in  
6 the funeral establishment in which he or she is employed.

7 SEC. 61. Section 7667 of the Business and Professions  
8 Code is amended to read:

9 7667. (a) The ~~board~~ *program* shall have the power to  
10 grant leaves of absence and extensions of leaves of  
11 absences and approve absences during the term of  
12 apprenticeship.

13 (b) A leave of absence, including any extensions, shall  
14 not be approved for a longer period than an aggregate of  
15 one year.

16 (c) No credit will be given to an apprentice on his or  
17 her apprenticeship for the period during which he or she  
18 is absent from duty on leave.

19 (d) Application for a leave of absence and for an  
20 extension thereof shall be made by the apprentice on a  
21 form provided by the ~~board~~ *program*.

22 (e) Upon termination of a leave of absence, the  
23 apprentice shall report that fact to the ~~board~~ *program*  
24 within 10 days of his or her resumption of apprenticeship  
25 by returning to the ~~Sacramento office of the board~~  
26 *program*, his or her certificate of registration  
27 accompanied by a statement as to the resumption of  
28 apprenticeship which statement shall be certified as  
29 correct by the funeral director in whose establishment he  
30 or she is to resume his or her duties and by the embalmer  
31 under whose supervision he or she is to resume his or her  
32 apprenticeship.

33 (f) Failure to report within 10 days after the expiration  
34 date of any leave of absence shall be cause for cancellation  
35 of the registration of an apprentice.

36 SEC. 62. Section 7668 of the Business and Professions  
37 Code is amended to read:

38 7668. The ~~board~~ *program* may suspend or revoke a  
39 certificate of apprenticeship, after notice and upon  
40 complaint and hearing in accordance with the provisions

1 of Article 6, if the apprentice is guilty of any of the  
2 following acts or omissions:

3 (a) Failure to devote full-time employment to the  
4 duties of his or her apprenticeship.

5 (b) Failure to make any report required by ~~law to the~~  
6 ~~board~~ *this chapter*.

7 (c) Absence from duty except as provided in this code.

8 (d) Being on duty as an apprentice while under the  
9 influence of ~~liquor~~ *any controlled substance, as defined in*  
10 *Division 10 (commencing with Section 11000) of the*  
11 *Health and Safety Code, or any dangerous drug as defined*  
12 *in Article 2 (commencing with Section 4015) of Chapter*  
13 *9 of the Business and Professions Code, or alcoholic*  
14 *beverages or other intoxicating substances, to an extent*  
15 *dangerous or injurious to himself, herself, any person, or*  
16 *the public to the extent that such use impairs his or her*  
17 *ability to conduct with safety to the public the practice*  
18 *authorized by his or her certification.*

19 (e) Disobedience of proper orders or instructions of  
20 his or her superior.

21 (f) Violation of any provision of this chapter or any  
22 rule or regulation of the ~~board~~ *department*.

23 (g) Soliciting business for a funeral director or for an  
24 embalmer in violation of this chapter.

25 (h) Fraud or misrepresentation in obtaining a  
26 certificate of registration as an apprentice.

27 (i) Conviction of a crime substantially related to the  
28 qualifications, functions and duties of an apprentice, in  
29 which case the record of conviction, or a certified copy,  
30 shall be conclusive evidence of the conviction.

31 SEC. 63. Section 7669 of the Business and Professions  
32 Code is amended to read:

33 7669. An apprentice who has had his or her certificate  
34 of apprenticeship suspended or revoked may, within one  
35 year after the suspension or revocation apply for  
36 reregistration upon compliance with the law in effect at  
37 the time he or she so applies and payment of the  
38 apprentice application fee fixed by this chapter. No  
39 reregistration shall have the effect of continuing an

1 apprenticeship beyond the period specified in Section  
2 7666.

3 The ~~board~~ *program* may, when the circumstances  
4 warrant, allow an apprentice credit under a  
5 reregistration for the time actually served under a  
6 previous registration, but if the previous registration has  
7 been suspended or revoked for unprofessional conduct,  
8 not more than 75 percent of the time previously served  
9 shall be credited on the reregistration.

10 SEC. 64. Section 7670 of the Business and Professions  
11 Code is amended to read:

12 7670. (a) The apprenticeship required by this article  
13 shall be served in a licensed funeral establishment that  
14 shall have been previously approved for apprenticeship  
15 training by the ~~board~~ *program*. In order to qualify for  
16 approval the funeral director shall submit to the ~~board~~  
17 *program* an application, accompanied by the fee fixed by  
18 this chapter, showing:

19 (1) That not less than 50 human remains per  
20 apprentice employed have been embalmed in the  
21 establishment during the 12 months immediately  
22 preceding the date of the application.

23 (2) That the applicant has, and will continue to have,  
24 in full-time employment, for each two apprentices  
25 employed in his or her establishment, a California  
26 embalmer who has had not less than two years' practical  
27 experience as a California licensed embalmer  
28 immediately preceding the date of the application.

29 (3) That the licensed funeral establishment of that  
30 applicant meets the requirements of law as to equipment,  
31 cleanliness and sanitation as determined by an inspection  
32 report filed with the ~~board~~ *program*.

33 (b) Licensed funeral establishments under common  
34 ownership within close geographical proximity of each  
35 other may request any of the following from the ~~board~~  
36 *program*:

37 (1) To be treated in aggregate for the purpose of  
38 meeting the requirements of paragraph (1) of  
39 subdivision (a).

1 (2) To designate one additional supervising embalmer  
2 per registered apprentice.

3 (3) To allow a registered apprentice to serve in any or  
4 all of the licensed funeral establishments requested and  
5 approved pursuant to this section.

6 (c) Approval granted under this section shall be  
7 renewed annually upon application by the funeral  
8 director, showing continued compliance with the  
9 foregoing provisions of this section, filed with the ~~board~~  
10 ~~program~~ not later than January 15 of each year, ~~which~~  
11 ~~application shall be acted upon by the board at its first~~  
12 ~~meeting thereafter~~. An application for renewal shall be  
13 accompanied by the fee fixed by this chapter.

14 SEC. 65. Section 7685.2 of the Business and  
15 Professions Code is amended to read:

16 7685.2. No funeral director shall enter into a contract  
17 for furnishing services or property in connection with the  
18 burial or other disposal of ~~a dead human body~~ *remains*  
19 until he *or she* has first submitted to the potential  
20 purchaser of such services or property a written or  
21 printed memorandum containing the following,  
22 provided such information is available at the time of  
23 execution of the contract:

24 (a) The total charge for the funeral director's services  
25 and the use of his, *hers, or its* facilities, including the  
26 preparation of the body and other professional services,  
27 and the charge for the use of automotive and other  
28 necessary equipment.

29 (b) An itemization of charges for the following  
30 merchandise as selected: the casket, an outside receptacle  
31 and clothing.

32 (c) An itemization of fees or charges and the total  
33 amount of cash advances made by the funeral director for  
34 transportation, flowers, cemetery or crematory charges,  
35 newspaper notices, clergy honorarium, transcripts,  
36 telegrams, long distance telephone calls, music and such  
37 other advances as authorized by the purchaser.

38 (d) An itemization of any other fees or charges not  
39 included above.

(e) The total of the amount specified in subdivisions (a), (b), (c), and (d).

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

SEC. 66. Section 7685.3 of the Business and Professions Code is amended to read:

7685.3. Commencing January 1, 1994, the current address, telephone number, and name of the ~~State Board of Funeral Directors and Embalmers~~ *Department of Consumer Affairs, Cemetery and Funeral Programs* shall appear on the first page of any contract for goods and services offered by a funeral director. At a minimum, the information shall be in 8-point boldface type and make this statement:

“FOR MORE INFORMATION ON FUNERAL MATTERS, CONTACT: ~~STATE BOARD OF FUNERAL DIRECTORS AND EMBALMERS~~ *DEPARTMENT OF CONSUMER AFFAIRS, CEMETERY AND FUNERAL PROGRAMS*, (ADDRESS); TELEPHONE NUMBER (NUMBER).”

~~For the period of January 1, 1993, through December 31, 1993, a funeral director shall supply the above information in writing when presenting a sales contract to any individual.~~

SEC. 67. Section 7686 of the Business and Professions Code is amended to read:

7686. The ~~board~~ *program* may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found guilty by the ~~board~~ *program* of any of the acts or omissions constituting grounds for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the

1 Government Code, and the ~~board~~ *program* shall have all  
2 the powers granted therein.

3 SEC. 68. Section 7686.5 of the Business and  
4 Professions Code is amended to read:

5 7686.5. All accusations against licensees shall be filed  
6 with the ~~board~~ *department* within two years after the  
7 performance of the act or omission alleged as the ground  
8 for disciplinary action; provided, however, that the  
9 foregoing provision shall not constitute a defense to an  
10 accusation alleging fraud or misrepresentation as a  
11 ground for disciplinary action. The cause for disciplinary  
12 action in such case shall not be deemed to have accrued  
13 until discovery, by the ~~board~~ *program*, of the facts  
14 constituting the fraud or misrepresentation, and, in such  
15 case, the accusation shall be filed within three years after  
16 such discovery.

17 SEC. 69. Section 7687 of the Business and Professions  
18 Code is amended to read:

19 7687. Upon receipt of a complaint, the ~~executive~~  
20 ~~officer shall ascertain whether or not the accused licensee~~  
21 ~~has been guilty of an act or omission constituting a ground~~  
22 ~~for disciplinary action and~~ *program* may make or cause to  
23 be made such investigation as ~~he or she~~ *it* deems  
24 necessary ~~in order to ascertain this fact~~.

25 ~~If, with or without investigation, the executive officer~~  
26 ~~determines that the accused licensee has not been guilty~~  
27 ~~of an act or omission constituting a ground for disciplinary~~  
28 ~~action, he or she shall notify the complainant and file the~~  
29 ~~findings with the board. If, with or without investigation,~~  
30 ~~the executive officer determines that the accused~~  
31 ~~licensee is guilty or is probably guilty of such an act or~~  
32 ~~omission he or she shall forward the findings to the~~  
33 ~~attorney for the board, including therein the~~  
34 ~~recommendations, he or she deems desirable. Upon~~  
35 ~~receipt of the findings and recommendations, the~~  
36 ~~attorney for the board shall promptly take action thereon~~  
37 ~~as may be proper.~~

38 SEC. 70. Section 7687.5 of the Business and  
39 Professions Code is repealed.

~~7687.5. The board may, if it desires, hold an informal hearing and an investigation, with or without the knowledge or presence of the accused licensee. The board may not do more than determine upon the following courses at an informal hearing or after an investigation:~~

- ~~(a) To continue the case for further investigation.~~
- ~~(b) To suspend further action until a future time.~~
- ~~(c) To dismiss the complaint.~~
- ~~(d) To proceed with a formal hearing.~~

SEC. 71. Section 7690 of the Business and Professions Code is amended to read:

7690. The ~~board~~ *program* may discipline every accused licensee whose default has been entered or who has been tried and found guilty, after formal hearing, of any act or omission constituting a ground for disciplinary action.

Any of the following penalties may be imposed by the ~~board~~ *program*:

- (a) Suspension of the disciplinary order.
- (b) Reproval, public or private.
- (c) Probation.
- (d) Suspension of the right to practice.
- (e) Revocation of the right to practice.
- (f) Such other penalties as the ~~board~~ *program* deems fit.

SEC. 72. Section 7693 of the Business and Professions Code is amended to read:

7693. False or misleading advertising as a *funeral establishment*, funeral director, or embalmer constitutes a ground for disciplinary action.

SEC. 73. Section 7696 of the Business and Professions Code is amended to read:

7696. Employment, directly or indirectly, of any apprentice, agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence ~~dead~~ human ~~bodies~~ *remains* may be turned over to a particular funeral director or embalmer constitutes a ground for disciplinary action.

SEC. 74. Section 7697 of the Business and Professions Code is amended to read:

7697. The buying, after a death or while a death is impending, of funeral directing and embalming business by the licensee, his, *hers, or its* agents, assistants or employees, or the direct or indirect payment, or offer of payment, of a commission by the licensee, his, *hers, or its* agents, assistants or employees for the purpose of such buying of business, constitutes a ground for disciplinary action.

SEC. 75. Section 7700 of the Business and Professions Code is amended to read:

7700. Using profane, indecent or obscene language in the course of the preparation for burial, removal or other disposition of or during the funeral service for ~~a dead~~ human ~~body~~ *remains*, or within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of constitutes a ground for disciplinary action.

SEC. 76. Section 7701 of the Business and Professions Code is amended to read:

7701. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing ~~a dead~~ human ~~body~~ *remains* to be disposed of in any crematory, mausoleum or cemetery constitutes a ground for disciplinary action.

SEC. 77. Section 7702 of the Business and Professions Code is amended to read:

7702. Using any casket or part of a casket which has previously been used as a receptacle for, or in connection with the burial or other disposition of, ~~a dead~~ human ~~body~~ *remains* constitutes a ground for disciplinary action; provided, however, this section shall not apply to exterior casket hardware which is not sold to the purchaser, or where same is reserved by contract.

SEC. 78. Section 7704 of the Business and Professions Code is amended to read:

7704. Violation of any State law or municipal or county ordinance or regulation affecting the handling,



1 custody, care or transportation of ~~dead~~ human ~~bodies~~  
2 *remains* constitutes a ground for disciplinary action.

3 SEC. 79. Section 7706 of the Business and Professions  
4 Code is amended to read:

5 7706. Refusing to surrender promptly the custody of  
6 ~~a dead human body~~ *remains*, upon the express order of  
7 the person lawfully entitled to its custody constitutes a  
8 ground for disciplinary action.

9 SEC. 80. Section 7708 of the Business and Professions  
10 Code is amended to read:

11 7708. The ~~board~~ *department*, after a hearing, may  
12 deny the application of a funeral establishment, funeral  
13 director, embalmer, or apprentice embalmer on proof  
14 that the applicant has committed acts or crimes  
15 constituting grounds for denial of licensure under Section  
16 480. The record of conviction, or a certified copy thereof,  
17 shall be conclusive evidence of the conviction.

18 SEC. 81. Section 7709 of the Business and Professions  
19 Code is amended to read:

20 7709. A plea or verdict of guilty or a conviction  
21 following a plea of nolo contendere is deemed to be a  
22 conviction within the meaning of this article. The ~~board~~  
23 *program* may order the license suspended or revoked, or  
24 may decline to issue a license, when the time for appeal  
25 has elapsed, or the judgment of conviction has been  
26 affirmed on appeal or when an order granting probation  
27 is made suspending the imposition of sentence,  
28 irrespective of a subsequent order under the provisions  
29 of Section 1203.4 of the Penal Code allowing such person  
30 to withdraw his plea of guilty and to enter a plea of not  
31 guilty, or setting aside the verdict of guilty, or dismissing  
32 the accusation, information or indictment.

33 SEC. 82. Section 7711 of the Business and Professions  
34 Code is amended to read:

35 7711. When a funeral establishment, funeral director  
36 or embalmer has had his, or her, or its license suspended,  
37 canceled, or revoked by the ~~board~~ *program*, the ~~board~~  
38 *program*, upon written application by the licensee  
39 affected, upon not less than 10 days' notice to all parties  
40 of record in the particular case, and after hearing all

1 evidence offered in support of and in opposition to that  
2 application, may, in its discretion, and upon those terms  
3 as it may deem just, reinstate the applicant.

4 SEC. 83. Section 7715 of the Business and Professions  
5 Code is amended to read:

6 7715. Any person, partnership, association,  
7 corporation or other form of organization or his, *hers*, or  
8 its agents or representatives, who violates any of the  
9 provisions of this chapter is guilty of a misdemeanor.

10 SEC. 84. Section 7718.5 of the Business and  
11 Professions Code is amended to read:

12 7718.5. Every person as an individual, as a partner in  
13 a partnership or as an officer or employee of a  
14 corporation, association or other organization, who,  
15 without a license, holds himself *or herself* out as a funeral  
16 director, is guilty of a misdemeanor.

17 SEC. 85. Section 7725 of the Business and Professions  
18 Code is amended to read:

19 7725. Licenses issued under this chapter shall expire  
20 at 12 p.m. on January 31, 1969, and thereafter at 12 p.m.  
21 on January 31 of each year, if not in each instance  
22 renewed. To renew an unexpired license, the holder  
23 thereof shall on or before the date on which it would  
24 otherwise expire, apply for renewal on a form prescribed  
25 by the ~~board~~ *program*, and pay the renewal fee  
26 prescribed by this chapter.

27 On or before the 10th day of December of each year,  
28 commencing in 1968, the ~~board~~ *program* shall mail to  
29 each licensed *funeral establishment*, funeral director, and  
30 ~~each licensed~~ embalmer, addressed to him *or her* at his *or*  
31 *her* last known address, a notice that a renewal fee is due  
32 and payable.

33 SEC. 86. Section 7725.2 of the Business and  
34 Professions Code is amended to read:

35 7725.2. Except as otherwise provided in this article, a  
36 license which has expired may be renewed at any time  
37 within five years after its expiration on filing of *an*  
38 application for renewal on a form prescribed by the ~~board~~  
39 *program* and payment of the renewal fee in effect on the  
40 last regular renewal date. If the license is not renewed

1 within 30 days after its expiration the licensee, as a  
2 condition precedent to renewal, shall also pay the  
3 delinquency fee prescribed by this chapter. Renewal  
4 under this section shall be effective on the date on which  
5 the application is filed, on the date on which the renewal  
6 fee is paid, or on the date on which the delinquency fee,  
7 if any, is paid, whichever last occurs. If so renewed, the  
8 license shall continue in effect through the date provided  
9 in Section 7725 which next occurs after the effective date  
10 of the renewal, when it shall expire if it is not again  
11 renewed.

12 If a license is not renewed within one year following its  
13 expiration, the ~~board~~ *program* may require as a condition  
14 of renewal that the holder of the license pass an  
15 examination on the appropriate subjects provided by this  
16 chapter.

17 SEC. 87. Section 7725.5 of the Business and  
18 Professions Code is amended to read:

19 7725.5. A license which is not renewed within five  
20 years after its expiration may not be renewed, restored,  
21 reissued, or reinstated thereafter. The holder of the  
22 expired license may obtain a new license only if he, *she*,  
23 *or it* pays all of the fees, and meets all of the requirements,  
24 other than requirements relating to education, set forth  
25 in this chapter for obtaining an original license, except  
26 that the ~~board~~ *department* may issue a new license to  
27 him, *her*, *or it* without an examination if he, *she*, *or it*  
28 establishes to its satisfaction that, with due regard for the  
29 public interest, he, *she*, *or it* is qualified to engage in the  
30 activity in which he, *she*, *or it* again seeks to be licensed.  
31 The ~~board~~ *director* may, by appropriate regulation,  
32 provide for the waiver or refund of all or any part of the  
33 application fee in those cases in which a license is issued  
34 without an examination under this section.

35 The provisions of this section do not apply to  
36 certificates of apprenticeship.

37 SEC. 88. Section 7727 of the Business and Professions  
38 Code is amended to read:

39 7727. On or before the tenth day of each month, the  
40 department shall pay into the State treasury and report

1 to the State Controller all the fees received for the ~~board~~  
2 *program*. The fees shall be received by the State  
3 Treasurer and placed in the State funeral directors and  
4 embalmers fund, which fund is available for expenditures  
5 necessary for the proper administration of this chapter.

6 SEC. 89. Section 7735 of the Business and Professions  
7 Code is amended to read:

8 7735. No funeral establishment licensed under the  
9 laws of the State of California, or the agents or employees  
10 of a funeral establishment, shall enter into or solicit any  
11 preneed arrangement, contract or plan, hereinafter  
12 referred to as "contract," requiring the payment to the  
13 licensee of money or the delivery to the licensee of  
14 securities to pay for the final disposition of human  
15 remains or for funeral services or for the furnishing of  
16 personal property or funeral merchandise, wherein the  
17 use or delivery of those services, property or merchandise  
18 is not immediately required, unless the contract requires  
19 that all money paid directly or indirectly and all securities  
20 delivered under that agreement or under any agreement  
21 collateral thereto, shall be held in trust for the purpose for  
22 which it was paid or delivered until the contract is  
23 fulfilled according to its terms; provided, however, that  
24 any payment made or securities deposited pursuant to  
25 this article shall be released upon the death of the person  
26 for whose benefit the trust was established as provided in  
27 Section 7737. The income from the corpus may be used  
28 to pay for a reasonable annual fee for administering the  
29 trust, including a trustee fee, to be determined by the  
30 ~~board~~ *program*, and to establish a reserve of not to exceed  
31 10 percent of the corpus as a revocation fee in the event  
32 of cancellation on the part of the beneficiary.

33 None of the trust corpus shall be used for payment of  
34 any commission nor shall any of the trust corpus be used  
35 for other expenses of trust administration.

36 SEC. 90. Section 7737.3 of the Business and  
37 Professions Code is amended to read:

38 7737.3. All commingled preneed trust funds held by  
39 a funeral establishment shall be subject to an annual,  
40 independent certified financial audit with a copy of the

1 audit to be submitted to the ~~board~~ *program* for review  
2 within 120 days of the close of the fund's fiscal year. Any  
3 findings of noncompliance with existing law regarding  
4 preneed trust funds shall be identified by the auditor in  
5 a separate report for review and action by the ~~board~~  
6 *program*. Audits and reports of noncompliance shall be  
7 filed simultaneously.

8 SEC. 91. Section 7737.5 of the Business and  
9 Professions Code is amended to read:

10 7737.5. A trustee may deposit the corpus of the trust  
11 in any savings~~and loan association~~ *institution* insured by  
12 the Federal Savings and Loan Insurance Corporation.

13 SEC. 92. Section 7740 of the Business and Professions  
14 Code is amended to read:

15 7740. The ~~State Board of Funeral Directors and~~  
16 ~~Embalmers~~ *program* is authorized to enforce of its own  
17 initiative the provisions of this article and may adopt such  
18 rules and regulations as in its opinion may be necessary to  
19 perform such duties and to safeguard the trust funds  
20 subject to this chapter.

21 SEC. 93. Section 7740.5 of the Business and  
22 Professions Code is amended to read:

23 7740.5. A funeral establishment shall pay to the ~~board~~  
24 *department* the fee fixed by this chapter for filing with  
25 the ~~board~~ *program* any report on preneed trust funds  
26 required by rules and regulations of the ~~board~~ *program*  
27 adopted pursuant to Section 7740.

28 SEC. 94. Section 8556 of the Business and Professions  
29 Code is amended to read:

30 8556. (a) Licensed contractors acting in their  
31 capacity as such, may remove and replace any structure  
32 or portions of a structure damaged by wood-destroying  
33 pests or organisms if such work is incidental to other work  
34 being performed on the structure involved or if such  
35 work has been identified by a structural pest control  
36 inspection report. Licensed contractors acting in their  
37 capacity as such may apply wood preservatives directly  
38 to end cuts and drill holes of pressure treated wood, and  
39 to foundation wood as required by building codes, as well  
40 as to fencing and decking, by brush, dip, or spray method

1 and need not obtain a structural pest control operator's  
2 license under this chapter for performance of that work,  
3 provided a disclosure in the following form is submitted  
4 ~~on~~ to the customer in writing: "The application of a wood  
5 preservative is intended to prevent the establishment  
6 and flourishing of organisms which can deteriorate wood.  
7 If you suspect pest infestation or infection, contact a  
8 ~~licensed~~ *registered* structural pest control ~~operator~~  
9 *company* prior to the application of a wood preservative."

10 These exemptions do not authorize the performance of  
11 any other acts defined in Section 8505.

12 (b) A licensed contractor may contract for the  
13 performance of any soil treatment pest control work to  
14 eliminate, exterminate, control, or prevent infestations or  
15 infections of pests or organisms in the ground beneath or  
16 adjacent to any existing building or structure or in or  
17 upon any site upon which any building or structure is to  
18 be constructed, but the actual performance of any such  
19 work must be done by a registered structural pest control  
20 company.

21 SEC. 95. Section 9603 of the Business and Professions  
22 Code is repealed.

23 ~~9603. "Board" means the cemetery board.~~

24 SEC. 96. Section 9603 is added to the Business and  
25 Professions Code, to read:

26 9603. The following terms as used in this chapter shall  
27 have the meanings expressed in this section:

28 (a) "Department" means the Department of  
29 Consumer Affairs.

30 (b) "Director" means the Director of Consumer  
31 Affairs.

32 SEC. 97. Section 9604 of the Business and Professions  
33 Code is amended to read:

34 9604. A cemetery broker is a person who, other than  
35 in reference to an occasional sale, sells or offers for sale,  
36 buys, or offers to buy, lists, leases or offers to lease, or  
37 solicits, or negotiates the purchase or sale, lease or  
38 exchange of cemetery property or interment services, or  
39 interest therein, for his *or her* own account or for another.

1 SEC. 98. Section 9605 of the Business and Professions  
2 Code is amended to read:

3 9605. A cemetery ~~salesman~~ *salesperson* is a natural  
4 person who, other than in reference to an occasional sale,  
5 is employed by a cemetery broker to sell, or offer for sale,  
6 list or offer to list, or to buy, or to offer to buy, or to lease,  
7 or offer to lease, or to solicit, or to negotiate the purchase  
8 or sale or lease or exchange of cemetery property or  
9 interment services, or any interest therein, for his *or her*  
10 own account or for another.

11 SEC. 99. Section 9625 is added to the Business and  
12 Professions Code, to read:

13 9625. There are in the department, the Cemetery and  
14 Funeral Programs, under the supervision and control of  
15 the director.

16 The director may appoint a chief at a salary to be fixed  
17 and determined by the director, with the approval of the  
18 Director of Finance. The duty of enforcing and  
19 administering this chapter is vested in the chief, and he  
20 or she is responsible to the director therefor. The chief  
21 shall serve at the pleasure of the director.

22 SEC. 100. Section 9626 of the Business and Professions  
23 Code is repealed.

24 ~~9626. Members of the board, except the public~~  
25 ~~members, shall be appointed only from persons who have~~  
26 ~~had, immediately preceding their appointment, a~~  
27 ~~minimum of five consecutive years' experience in this~~  
28 ~~state in the active administrative management of a~~  
29 ~~cemetery corporation or as a member of the board of~~  
30 ~~directors thereof for this period and shall at the time of~~  
31 ~~their appointment have the actual and full authority of a~~  
32 ~~president, general manager, or executive vice president.~~  
33 ~~The five-year consecutive period shall be exclusive of~~  
34 ~~time spent in the armed services. They shall hold office~~  
35 ~~only as long as they continue in such active, actual and~~  
36 ~~authoritative capacity.~~

37 ~~The public members appointed by the Governor shall~~  
38 ~~not be licentiates of the board. In addition, a public or lay~~  
39 ~~member shall not have been at any time within five years~~

~~1 immediately preceding his appointment, nor shall he be  
2 during his term of office, any of the following:~~

~~3 (a) Engaged in, or a stockholder or legal counsel for  
4 any person, firm, or corporation which is engaged in, any  
5 business or activity which a cemetery authority may  
6 engage in under Section 7020 of the Health and Safety  
7 Code, whether or not such business or activity is  
8 incidental to or independent from a cemetery business.~~

~~9 (b) Engaged in any of the pursuits covered by Part 2  
10 (commencing with Section 8125) or Part 4 (commencing  
11 with Section 8890) of Division 8 of the Health and Safety  
12 Code.~~

SEC. 101. Section 9626.5 of the Business and Professions Code is repealed.

~~15 9626.5. Each member of the board shall hold office  
16 until the appointment and qualification of his successor or  
17 until one year shall have elapsed since the expiration of  
18 the term for which he was appointed, whichever first  
19 occurs.~~

SEC. 102. Section 9627 of the Business and Professions Code is repealed.

~~22 9627. Each member of the board shall receive a per  
23 diem and expenses as provided in Section 103.~~

SEC. 103. Section 9628 of the Business and Professions Code is repealed.

~~26 9628. The board shall elect annually a chairman and  
27 vice chairman and such other officers as it shall determine  
28 from among its members. Subject to the provisions of  
29 Sections 154 and 159.5, the board may employ, fix the  
30 salaries of and prescribe the duties of, two administrative  
31 assistants and such clerical, technical and other  
32 employees as are necessary in the carrying out of its  
33 duties.~~

SEC. 104. Section 9629 of the Business and Professions Code is repealed.

~~36 9629. The board shall meet at least twice a year in  
37 order to conduct its business and may meet at such other  
38 times as it may designate. The board may meet at any  
39 place within this State.~~



1 SEC. 105. Section 9630 of the Business and Professions  
2 Code is amended to read:

3 9630. The ~~board~~ *department* may establish necessary  
4 rules and regulations for the administration and  
5 enforcement of this act and the laws subject to its  
6 jurisdiction and prescribe the form of statements and  
7 reports provided for in this act. Such rules and regulations  
8 shall be adopted, amended, or repealed in accordance  
9 with the provisions of the Administrative Procedure Act.

10 SEC. 106. Section 9630.5 of the Business and  
11 Professions Code is repealed.

12 ~~9630.5. The board shall promulgate regulations by~~  
13 ~~July 1, 1994, on standards for the burial depth of graves.~~

14 SEC. 107. Section 9631 of the Business and Professions  
15 Code is amended to read:

16 9631. In the enforcement of this act and the laws  
17 subject to its jurisdiction, the ~~board~~ *department* has all  
18 the powers and is subject to all the responsibilities vested  
19 in and imposed upon the head of a department under  
20 Chapter 2, Part 1, Division 3, Title 2 of the Government  
21 Code.

22 SEC. 108. Section 9650 of the Business and Professions  
23 Code is amended to read:

24 9650. (a) Each cemetery authority shall file with the  
25 ~~board~~ *department* annually, on or before June 1, or within  
26 five months after close of their fiscal year provided  
27 approval has been granted by the ~~board~~ *department* as  
28 provided for in Section 9650.1, a written report in form  
29 prescribed by the ~~board~~ *department* setting forth:

30 (1) The number of square feet of grave space and the  
31 number of crypts and niches sold or disposed of under  
32 endowment care by specific periods as set forth in the  
33 form prescribed.

34 (2) The amount collected and deposited in both the  
35 general and special endowment care funds segregated as  
36 to the amounts for crypts, niches and grave space by  
37 specific periods as set forth either on the accrual or cash  
38 basis at the option of the cemetery authority.

39 (3) A statement showing separately the total amount  
40 of the general and special endowment care funds

1 invested in each of the investments authorized by law and  
2 the amount of cash on hand not invested, which  
3 statement shall actually show the financial condition of  
4 the funds.

5 (4) A statement showing separately the location,  
6 description, and character of the investments in which  
7 the special endowment care funds are invested. The  
8 statement shall show the valuations of any securities held  
9 in the endowment care fund as valued pursuant to  
10 Section 9659.

11 (5) A statement showing the transactions entered into  
12 between the corporation or any officer, employee or  
13 stockholder thereof and the trustees of the endowment  
14 care funds with respect to those endowment care funds.  
15 The statement shall show the dates, amounts of the  
16 transactions, and shall contain a statement of the reasons  
17 for those transactions.

18 (b) The report shall be verified by the president or  
19 vice president and one other officer of the cemetery  
20 corporation. The information submitted pursuant to  
21 paragraphs (2), (3), (4), and (5) shall be accompanied by  
22 an annual audit report of the endowment care fund and  
23 special care fund signed by a certified public accountant  
24 or public accountant. The scope of the audit shall include  
25 the inspection, review, and audit of the general purpose  
26 financial statements of the endowment care fund and  
27 special care fund, which shall include the balance sheet,  
28 the statement of revenues, expenditures, and changes in  
29 fund balance.

30 (c) If a cemetery authority files a written request prior  
31 to the date the report is due, the ~~board~~ department may,  
32 in its discretion, grant an additional 30 days within which  
33 to file the report.

34 SEC. 109. Section 9650.1 of the Business and  
35 Professions Code is amended to read:

36 9650.1. Each cemetery authority requesting a change  
37 of filing date of the endowment care fund report from a  
38 calendar year to a fiscal year or a change in fiscal year shall  
39 file a petition with the ~~board~~ department prior to the  
40 close of the year of request. The ~~board~~ department may

1 approve such petition provided that no report shall be for  
2 a period of more than 12 months.

3 SEC. 110. Section 9650.2 of the Business and  
4 Professions Code is amended to read:

5 9650.2. The report shall state the name of the trustee  
6 or trustees of the endowment care fund. Any change of  
7 trustee shall be reported to the ~~board~~ *department* within  
8 a period of 30 days after the change is made.

9 SEC. 111. Section 9650.4 of the Business and  
10 Professions Code is amended to read:

11 9650.4. (a) Any cemetery authority that does not file  
12 its report within the time prescribed by Section 9650 may  
13 be assessed a fine by the ~~board~~ *department* in an amount  
14 not to exceed four hundred dollars (\$400) per month for  
15 a maximum of five months. The amount of the fine shall  
16 be established by regulation in accordance with the  
17 Administrative Procedure Act (Chapter 3.5  
18 (commencing with Section 11340) of Part 1 of Division 3  
19 of Title 2 of the Government Code). Failure to pay the  
20 fine within 15 days after receipt of written notification of  
21 the assessment or, where a timely request for waiver or  
22 reduction of the fine has been filed, within 15 days after  
23 receipt of written notification of the ~~board's~~ *department's*  
24 decision in the matter, shall be cause for disciplinary  
25 action.

26 (b) A cemetery authority may request waiver or  
27 reduction of a fine by making a written request therefor.  
28 The request shall be postmarked within the time  
29 specified above for payment of the fine and shall be  
30 accompanied by a statement showing good cause for the  
31 request.

32 (c) The ~~board~~ *department* may waive or reduce the  
33 fine where a timely request is made and where it  
34 determines, in its discretion, that the cemetery authority  
35 has made a sufficient showing of good cause for the  
36 waiver or reduction.

37 SEC. 112. Section 9651 of the Business and Professions  
38 Code is amended to read:

39 9651. The ~~board~~ *department* shall examine the  
40 reports filed with it as to their compliance with the

1 requirements of the Health and Safety Code as to the  
2 amount of endowment care funds collected and as to the  
3 manner of investment of such funds.

4 SEC. 113. Section 9652 of the Business and Professions  
5 Code is amended to read:

6 9652. The ~~board~~ *department* shall examine the  
7 endowment care funds of a cemetery authority:

8 (a) Whenever it deems necessary and at least once  
9 every five years;

10 (b) Whenever the cemetery authority in charge of  
11 endowment care funds fails to file the report required by  
12 this article; or

13 (c) Whenever the accountant or auditor qualifies his  
14 or her certification of the report that is prepared and  
15 signed by a certified public accountant licensed in the  
16 state and prepared in accordance with Section 9650.

17 (d) The reasonable and necessary cost of the  
18 examination performed under subdivision (b) or (c) shall  
19 be paid by the cemetery authority.

20 A certified copy of the actual costs, or a good faith  
21 estimate of the costs where actual costs are not available,  
22 signed by the director or his or her designee, shall be  
23 prima facie evidence of the reasonable and necessary  
24 costs of the examination.

25 The actual and necessary expense of the examination  
26 under subdivision (a) shall, in the discretion of the ~~board~~  
27 *department*, be paid by the cemetery authority  
28 whenever the examination requires more than one day  
29 and the need for continuing the examination is directly  
30 related to identified omissions and errors in the  
31 management of endowment care funds.

32 SEC. 114. Section 9652.1 of the Business and  
33 Professions Code is amended to read:

34 9652.1. If any cemetery authority refuses to pay such  
35 expenses, the ~~board~~ *department* shall refuse it a  
36 certificate of authority and shall revoke any existing  
37 certificate of authority. All examination expense moneys  
38 collected by the ~~board~~ *department* shall be paid into the  
39 State Treasury to the credit of the Cemetery Fund.

1 SEC. 115. Section 9653 of the Business and Professions  
2 Code is amended to read:

3 9653. (a) In making the examination the ~~board~~  
4 *department*:

5 (1) Shall have free access to the books and records  
6 relating to the trust funds, their collection and  
7 investment, and the number of graves, crypts and niches  
8 under endowment care.

9 (2) Shall inspect and examine the trust funds to  
10 determine their condition and the existence of the  
11 investments.

12 (3) Shall ascertain if the cemetery corporation has  
13 complied with all the laws applicable to trust funds.

14 (b) Upon request by the Department of Consumer  
15 Affairs, a cemetery authority shall provide records to  
16 substantiate the expenditures of the income of the trust  
17 funds. If a cemetery authority fails to reasonably comply  
18 with this request, the department may have access to  
19 books, records, and accounts of a cemetery authority for  
20 purposes of ascertaining compliance with applicable  
21 laws.

22 SEC. 116. Section 9654 of the Business and Professions  
23 Code is amended to read:

24 9654. The ~~board~~ *department* may administer oaths  
25 and examine under oath any person relative to the  
26 endowment care fund. Such examination shall be  
27 conducted in the principal office of the person or body in  
28 charge of the endowment care fund and shall be private.

29 SEC. 117. Section 9655 of the Business and Professions  
30 Code is amended to read:

31 9655. If any examination made by the ~~board~~  
32 *department*, or any report filed with it, shows that there  
33 has not been collected and deposited in the endowment  
34 care funds the minimum amounts required by the Health  
35 and Safety Code since September 19, 1939, the ~~board~~  
36 *department* shall require such cemetery corporation to  
37 comply with Sections 8743 and 8744 of the Health and  
38 Safety Code.

39 SEC. 118. Section 9656 of the Business and Professions  
40 Code is amended to read:

1 9656. Whenever the ~~board~~ *department* finds, after  
2 notice and hearing, that any endowment care funds have  
3 been invested in violation of the Health and Safety Code,  
4 it shall by written order mailed to the person or body in  
5 charge of the fund require the reinvestment of the funds  
6 in conformity to that code within a period which shall be  
7 not less than two years where the investment was made  
8 prior to October 1, 1949, not less than six months where  
9 such investment was made on or after October 1, 1949,  
10 and before the effective date of the amendment of this  
11 section by the 1969 Regular Session of the Legislature, and  
12 not less than 30 days where such investment is made on  
13 or after the effective date of such amendment. Such  
14 period may be extended by the ~~board~~ *department* in its  
15 discretion.

16 SEC. 119. Section 9656.1 of the Business and  
17 Professions Code is amended to read:

18 9656.1. The superior court of the county in which the  
19 principal office of the cemetery authority in charge of  
20 endowment care funds is located shall, upon the filing by  
21 the ~~board~~ *department* of a verified application showing  
22 any of the following conditions hereinafter enumerated  
23 to exist, issue its order vesting title to any endowment  
24 care funds of a cemetery authority in the ~~board~~  
25 *department*, and directing the ~~board~~ *department*  
26 forthwith to take possession of all necessary books,  
27 records, property, real and personal, and assets, and to  
28 conduct as conservator, the management of such  
29 endowment care funds, or so much thereof as to the ~~board~~  
30 *department* may seem appropriate:

31 (a) That such cemetery authority has refused to  
32 submit its books, papers, accounts, or affairs to the  
33 reasonable examination of the ~~board~~ *department*.

34 (b) That such cemetery authority has neglected to  
35 observe an order of the ~~board~~ *department* to make good  
36 within the time prescribed by law any deficiency in its  
37 investments of endowment care funds.

38 (c) That such cemetery authority is found, after an  
39 examination, to be in such condition that its further

1 management of its endowment care funds will be  
2 hazardous to its members, plot holders, or to the public.

3 (d) That such cemetery authority has violated its  
4 articles of incorporation or any law of the state.

5 (e) That any officer, director, agent, servant or  
6 employee of such cemetery authority person refuses to be  
7 examined under oath relative to the endowment care  
8 funds thereof.

9 (f) That any person has embezzled or otherwise  
10 wrongfully diverted any of the endowment care funds of  
11 such cemetery authority.

12 Such order shall continue in force and effect until, on  
13 the application either of the ~~board~~ *department* or of such  
14 cemetery authority, it shall, after a full hearing, appear to  
15 the court that the ground for such order does not exist or  
16 has been removed and that such cemetery authority can  
17 properly resume title and possession of its property and  
18 the management of its endowment care funds.

19 SEC. 120. Section 9656.2 of the Business and  
20 Professions Code is amended to read:

21 9656.2. When it has been alleged by verified petition  
22 pursuant to Section 9652 or when the ~~board~~ *department*  
23 on its own investigation determines that there is probable  
24 cause to believe that any of the conditions set forth in  
25 Section 9656.1 exist or that irreparable loss and injury to  
26 the endowment care funds of a cemetery authority has  
27 occurred or may occur unless the ~~board~~ *department* so  
28 acts immediately, the ~~board~~ *department*, without notice  
29 and before applying to the court for any order, may take  
30 possession of the endowment care funds and the books,  
31 records, and accounts relating thereto of such cemetery  
32 authority, and retain possession subject to the order of the  
33 court. Any person having possession of and refusing to  
34 deliver any such assets, books or records of a cemetery  
35 authority against which a seizure order has been issued by  
36 the ~~board~~, *department* shall be guilty of a misdemeanor  
37 and punishable by a fine not exceeding one thousand  
38 dollars (\$1,000) or imprisonment not exceeding one year,  
39 or by both such fine and imprisonment.

1 SEC. 121. Section 9656.3 of the Business and  
2 Professions Code is amended to read:

3 9656.3. Whenever the ~~board~~ *department* makes any  
4 seizure as provided in Section 9656.2, it shall, on demand  
5 of the ~~board~~ *department*, be the duty of the sheriff of any  
6 county of this state, and of the police department of any  
7 municipal corporation therein, to furnish him *or her* with  
8 such deputies, patrolmen or officers as may be necessary  
9 to assist the ~~board~~ *department* in making and enforcing  
10 any such seizure.

11 SEC. 122. Section 9656.4 of the Business and  
12 Professions Code is amended to read:

13 9656.4. Immediately after effecting a seizure  
14 pursuant to Section 9656.2, the ~~board~~ *department* shall  
15 institute a proceeding as provided for in Section 9656.1.

16 SEC. 123. Section 9656.5 of the Business and  
17 Professions Code is amended to read:

18 9656.5. The ~~board~~ *department* shall maintain,  
19 regulate, operate, and control the property situated in  
20 Amador County, referred to as the Elkin property in  
21 Judicial Council Coordination Proceedings Nos. 1814 and  
22 1817, Order Re Proposed Neptune Memorial, Disposition  
23 of the Elkin Property, and Order Re Final Disposition of  
24 Ashes of the Sacramento Superior Court, and legally  
25 described as “Parcel 16-B as shown on the certain Record  
26 or Survey for Eugene S. Lowrance, et ux, filed for record  
27 May 17, 1971, in Book 17 of Maps and Plats at page 87,  
28 Amador County Records.” The ~~board~~ *department* shall  
29 administer and supervise endowment funds established  
30 by the court for the property. The ~~board~~ *department* shall  
31 exercise the authority granted by this section for the sole  
32 purpose of protecting the human remains resting on the  
33 property and preserving the property in its natural state.

34 SEC. 124. Section 9657 of the Business and Professions  
35 Code is amended to read:

36 9657. The ~~board~~ *department* is authorized to bring  
37 action to enforce the provisions of the law subject to its  
38 jurisdiction, in which actions it shall be represented by  
39 the Attorney General.



SEC. 125. Section 9658 of the Business and Professions Code is amended to read:

9658. The ~~board~~ department shall enforce and administer Parts 1 (*commencing with Section 8100*), 3, (*commencing with Section 8250*) and 5 (*commencing with Section 9501*) of Division 8 of the Health and Safety Code.

SEC. 126. Section 9659 of the Business and Professions Code is amended to read:

9659. In any report to the ~~board~~ department all bonds, debentures or other evidences of debt held by a cemetery corporation if amply secured and if not in default as to principal or interest may be valued as follows:

~~a.~~

(a) If purchased at par at the par value.

~~b.~~

(b) If purchased above or below par on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield the effective rate of interest on the basis at which the purchase was made.

~~c.~~

(c) In such valuation the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase.

SEC. 127. Section 9662 of the Business and Professions Code is amended to read:

9662. ~~Commencing January 1, 1994, the~~ The current address, telephone number, and name of the ~~Cemetery Board~~ department shall appear on the first page of any contract for goods and services offered by a cemetery authority or crematory. At a minimum, the information shall be in 8-point boldface type and make the following statement:

“FOR MORE INFORMATION ON CEMETERY AND CREMATION MATTERS, CONTACT: THE ~~CEMETERY BOARD~~ DEPARTMENT OF CONSUMER AFFAIRS, (ADDRESS); TELEPHONE NUMBER (NUMBER).”

1 ~~For the period January 1, 1993, through December 31,~~  
2 ~~1993,~~ a cemetery authority or crematory operator shall  
3 supply the above information in writing when presenting  
4 a sales contract to any individual.

5 SEC. 128. Section 9675 of the Business and Professions  
6 Code is amended to read:

7 9675. This article does not apply to the following cases  
8 or to the following persons:

9 (a) A person acting with reference to an occasional  
10 sale of his *or her* own property.

11 (b) The regular officers of a cemetery corporation  
12 holding a certificate of authority acting with reference to  
13 the corporation's property when they receive no special  
14 compensation therefor.

15 (c) Persons making an occasional sale under a duly  
16 executed power of attorney from others.

17 (d) The services rendered by an attorney at law in  
18 performing his duties as such.

19 (e) A receiver, trustee in bankruptcy, any person  
20 acting under orders of any court, or a trustee selling  
21 under a deed of trust.

22 (f) A real estate broker or real estate salesman, acting  
23 as such in connection with the sale, lease or exchange of  
24 real property, or interest therein, when the transfer of  
25 cemetery property is purely incidental to the sale, lease  
26 or exchange of real property.

27 SEC. 129. Section 9676 of the Business and Professions  
28 Code is amended to read:

29 9676. No person shall engage in the business of, act in  
30 the capacity of, advertise or assume to act as, a cemetery  
31 broker or cemetery ~~salesman~~ *salesperson* in this State  
32 without first obtaining a license from the ~~board~~  
33 *department*.

34 SEC. 130. Section 9677 of the Business and Professions  
35 Code is amended to read:

36 9677. Any act other than an occasional sale of buying  
37 or selling, leasing or exchanging cemetery property or  
38 interment services of or for another or on his *or her* own  
39 account, or offering for another or for his *or her* own  
40 account to buy or sell, lease or exchange cemetery

1 property or interment services, or negotiating the  
2 purchase or sale, lease or exchange of cemetery property  
3 or interment services, or negotiating the purchase or sale,  
4 lease or exchange, or listing or soliciting, or negotiating a  
5 loan on or leasing of cemetery property or interment  
6 services constitutes the person making such offer, sale or  
7 purchase, exchange or lease, or negotiating the loan, or  
8 listing or soliciting, a cemetery broker or cemetery  
9 ~~salesman~~ salesperson.

10 SEC. 131. Section 9678 of the Business and Professions  
11 Code is amended to read:

12 9678. No person engaged in the business or acting in  
13 the capacity of a broker or a ~~salesman~~ salesperson within  
14 this ~~State~~ state shall bring or maintain any action in the  
15 courts of this ~~State~~ state for the collection of  
16 compensation for the performance of any of the acts  
17 mentioned in this article without alleging and proving  
18 that he *or she* was a duly licensed cemetery broker or  
19 cemetery ~~salesman~~—salesperson at the time the alleged  
20 cause of action arose.

21 SEC. 132. Section 9679 of the Business and Professions  
22 Code is amended to read:

23 9679. No cemetery broker shall employ or  
24 compensate, directly or indirectly, any person for  
25 performing any of the acts within the scope of this article  
26 who is not a licensed cemetery broker, or a cemetery  
27 ~~salesman~~ salesperson licensed under the cemetery broker  
28 employing or compensating ~~him~~ *or her*. No cemetery  
29 ~~salesman~~ salesperson shall be employed by or accept  
30 compensation from any person other than the cemetery  
31 broker under whom he *or she* is at the time licensed.

32 No ~~salesman~~ salesperson shall pay any compensation  
33 for performing any of the acts within the scope of this  
34 article to any licensee except through the cemetery  
35 broker under whom he *or she* is at the time licensed.

36 For a violation of any of the provisions of this section,  
37 the ~~board~~ department may temporarily suspend or  
38 permanently revoke the license of the cemetery licensee  
39 in accordance with the provisions of this act relating to  
40 disciplinary proceedings.

1 SEC. 133. Section 9680 of the Business and Professions  
2 Code is amended to read:

3 9680. It is a misdemeanor, punishable by a fine not  
4 exceeding one hundred dollars (\$100) for each offense,  
5 for any person, whether obligor, escrowholder or  
6 otherwise, to pay or deliver to anyone a compensation for  
7 performing any of the acts within the scope of this article  
8 who is not known to be or who does not present evidence  
9 to such payor that he *or she* is a licensed cemetery broker  
10 at the time such compensation is earned.

11 For violation of any of the provisions of this section, the  
12 ~~board~~ *department* may temporarily suspend or  
13 permanently revoke the license of the cemetery licensee  
14 in accordance with the provisions of this act relating to  
15 disciplinary proceedings.

16 SEC. 134. Section 9681 of the Business and Professions  
17 Code is amended to read:

18 9681. Any person acting as a cemetery broker or  
19 cemetery ~~salesman~~ *salesperson* without a license, or who  
20 advertises so as to indicate he *or she* is a cemetery broker  
21 without being so licensed, is guilty of a misdemeanor. If  
22 such person is a corporation, it shall be punished by a fine  
23 of not to exceed five thousand dollars (\$5,000).

24 SEC. 135. Section 9682 of the Business and Professions  
25 Code is amended to read:

26 9682. Any cemetery ~~salesman~~ *salesperson* or  
27 cemetery broker who sells, causes to be sold, or offers for  
28 sale any cemetery property upon the promise, guarantee  
29 or representation to the purchaser that the same may be  
30 resold or repurchased at a financial profit is guilty of a  
31 misdemeanor.

32 For violation of any of the provisions of this section, the  
33 ~~board~~ *department* may temporarily suspend or  
34 permanently revoke the license of the cemetery  
35 ~~salesman~~ *salesperson* or cemetery broker in accordance  
36 with the provisions of this act relating to disciplinary  
37 proceedings.

38 No violation of any of the provisions of this section by  
39 any cemetery—~~salesman~~ *salesperson* or employee of any  
40 licensed cemetery broker shall cause the suspension or

1 revocation of the license of the employer of the ~~salesman~~  
2 *salesperson* or employee unless it appears upon a hearing  
3 by the ~~board~~ *department* that the employer had guilty  
4 knowledge of such violation.

5 SEC. 136. Section 9683 of the Business and Professions  
6 Code is amended to read:

7 9683. Every officer, agent or employee of any  
8 company, and every other person who knowingly  
9 authorizes, directs or aids in the publication,  
10 advertisement, distribution, or circularization of any false  
11 statement or representation concerning any cemetery or  
12 cemetery brokerage business and every person who, with  
13 knowledge that any advertisement, pamphlet,  
14 prospectus or letter concerning any cemetery brokerage  
15 business or any written statement that is false or  
16 fraudulent, issues, circulates, publishes or distributes the  
17 same, or causes it to be issued, circulated, published or  
18 distributed, or who in any other respect ~~willfully~~ *willfully*  
19 violates or fails, omits or neglects to obey, observe or  
20 comply with any order, permit, decision, demand or  
21 requirement of the ~~board~~ *department* under the  
22 provisions of this act relating to cemetery brokerage, is  
23 guilty of a misdemeanor, and, if a cemetery licensee, he  
24 *or she* shall be held to trial by the ~~board~~ *department* for  
25 a suspension or revocation of this cemetery license, as  
26 provided in the provisions of this act relating to  
27 disciplinary proceedings.

28 SEC. 137. Section 9684 of the Business and Professions  
29 Code is amended to read:

30 9684. Each cemetery broker, other than a cemetery  
31 corporation holding a certificate of authority, and each  
32 cemetery ~~salesman~~ *salesperson* must include in any  
33 advertising a statement that he *or she* is acting as a  
34 cemetery broker or cemetery ~~salesman~~ *salesperson*.

35 SEC. 138. Section 9686 of the Business and Professions  
36 Code is amended to read:

37 9686. Any person, other than a person making an  
38 occasional sale, who advertises cemetery property for sale  
39 or exchange, without being duly licensed as a cemetery  
40 broker or a cemetery ~~salesman~~ *salesperson*, or without

1 possessing a certificate of authority as a cemetery  
2 corporation, is guilty of a misdemeanor. If such person is  
3 a corporation, it shall be punished by a fine of not to  
4 exceed five thousand dollars (\$5,000).

5 SEC. 139. Section 9700 of the Business and Professions  
6 Code is amended to read:

7 9700. Application for license as a cemetery broker  
8 shall be made in writing on the form prescribed by the  
9 ~~board~~ department and filed at the principal office of the  
10 ~~board~~ department. The application shall be accompanied  
11 by the original cemetery broker's license fee.

12 SEC. 140. Section 9700.5 of the Business and  
13 Professions Code is amended to read:

14 9700.5. The ~~board~~ department shall not grant an  
15 original cemetery broker's license to any person who is  
16 not a resident of this state. Change of residence to another  
17 state shall terminate the license.

18 SEC. 141. Section 9700.6 of the Business and  
19 Professions Code is amended to read:

20 9700.6. The ~~board~~ department shall not grant an  
21 original cemetery broker's license to any person who has  
22 not held a cemetery ~~salesman's~~ salesperson's license for  
23 at least two (2) years prior to the date of his *or her*  
24 application for the broker's license, and during such time  
25 was not actively engaged in the business of a cemetery  
26 ~~salesman~~ salesperson except that if an applicant for a  
27 cemetery broker's license having at least the equivalent  
28 of two (2) years' general cemetery experience files a  
29 written petition with the ~~Cemetery—Board~~ department  
30 setting forth his *or her* qualifications and experience and  
31 the ~~Cemetery—Board~~ department approves, he *or she*  
32 may be issued a cemetery broker's license immediately  
33 upon passing the appropriate examinations and satisfying  
34 the other requirements of this article.

35 SEC. 142. Section 9701 of the Business and Professions  
36 Code is amended to read:

37 9701. Application for license as a cemetery  
38 salesperson shall be made in writing on the form  
39 prescribed by the ~~board~~ department and filed at the  
40 principal office of the ~~board~~ department. The application

1 shall be signed by the applicant, and shall be  
2 accompanied by the cemetery salesperson's license fee.

3 SEC. 143. Section 9702.1 of the Business and  
4 Professions Code is amended to read:

5 9702.1. The ~~board~~ *department* shall investigate the  
6 qualifications of the applicants. Except as otherwise  
7 prescribed in this article, it may issue the license applied  
8 for to an applicant on a showing satisfactory to it that the  
9 following facts exist:

10 (a) The applicant is properly qualified to perform the  
11 duties of a cemetery broker or ~~salesman~~ *salesperson*.

12 (b) Granting the license will not be against public  
13 interest.

14 (c) The applicant intends actively and in good faith to  
15 carry on the business of a cemetery broker or a cemetery  
16 ~~salesman~~ *salesperson*.

17 (d) In the case of a corporate applicant, the articles of  
18 incorporation permit it to act as a cemetery broker.

19 (e) In the case of an association or copartnership  
20 applying for such a license its articles of association or  
21 agreement of partnership authorize it to act as a  
22 cemetery broker.

23 (f) The license is not being secured for the purpose of  
24 permitting the applicant to advertise as a cemetery  
25 broker or ~~salesman~~ *salesperson* without actually engaging  
26 in such business.

27 (g) The applicant has not committed acts or crimes  
28 constituting grounds for denial of licensure under Section  
29 480.

30 SEC. 144. Section 9702.2 of the Business and  
31 Professions Code is amended to read:

32 9702.2. All cemetery brokers who do not possess a  
33 certificate of authority shall in addition to the  
34 requirements of this chapter file with said ~~board~~  
35 *department* a satisfactory bond to the people of the State  
36 of California, duly executed by a sufficient surety or  
37 sureties to be approved by the ~~board~~ *department*, in the  
38 amount of ten thousand dollars (\$10,000). Said bond shall  
39 be conditioned for the honest and faithful performance  
40 by such broker and his ~~salesmen~~ *or her salespersons* and

1 employees of any undertaking as a licensed cemetery  
2 broker or ~~salesman~~ *salesperson* or employee of said  
3 broker at any time when licensed under this chapter, and  
4 the strict compliance with the provisions of this chapter  
5 and of Division 8 of the Health and Safety Code relating  
6 to cemeteries, and the honest and faithful application of  
7 all funds received. Said bond shall be further conditioned  
8 upon the payment of all damages suffered by any person  
9 damaged or defrauded by reason of the violation of any  
10 of the provisions of this chapter or of Division 8 of the  
11 Health and Safety Code relating to cemeteries, or by  
12 reason of the violation of the obligation of such broker as  
13 an agent, as such obligations are laid down by the Civil  
14 Code of the State of California, or by reason of any fraud  
15 connected with or growing out of any transactions  
16 contemplated by this chapter or Division 8 of the Health  
17 and Safety Code.

18 SEC. 145. Section 9702.5 of the Business and  
19 Professions Code is amended to read:

20 9702.5. The ~~board~~ *department* shall ascertain by  
21 written examination that the applicant, and, in case of a  
22 copartnership or corporation applicant for a cemetery  
23 broker's license, that each officer, agent or member  
24 thereof through whom it proposes to act as a cemetery  
25 licensee has:

26 (a) Appropriate knowledge of the English language,  
27 including reading, writing and spelling, and of  
28 elementary arithmetic.

29 (b) A fair understanding of:

30 (1) Cemetery associations, cemetery corporations and  
31 duties of directors.

32 (2) Plot ownership, deeds, certificates of ownership,  
33 contracts of sale, liens and leases.

34 (3) Establishing, dedicating, maintaining, managing,  
35 operating, improving and conducting a cemetery.

36 (4) The care, preservation and embellishment of  
37 cemetery property.

38 (5) The care and preservation of endowment care  
39 funds, trust funds, and the investment thereof.



1 (c) A general and fair understanding of the obligations  
2 between principal and agent, of the principles of  
3 cemetery brokerage practice and the business ethics  
4 pertaining thereto, as well as of the provisions of this act  
5 relating to cemetery brokerage.

6 SEC. 146. Section 9703 of the Business and Professions  
7 Code is amended to read:

8 9703. The ~~board~~ *department* may, in its discretion,  
9 waive the examination of any applicant for a cemetery  
10 broker's license who held an unrevoked or unsuspended  
11 cemetery license on June 30th of the preceding fiscal year  
12 as an individual broker, an officer of a corporation, or  
13 member of a copartnership. ~~The board may waive the~~  
14 ~~examination of any applicant for a cemetery salesman's~~  
15 ~~license who held an unrevoked or unsuspended cemetery~~  
16 ~~salesman's license on June 30th of the preceding fiscal~~  
17 ~~year and who previously qualified by passing a written~~  
18 ~~examination.~~

19 SEC. 147. Section 9704 of the Business and Professions  
20 Code is amended to read:

21 9704. An application on the form prescribed by the  
22 ~~board~~ *department* for the renewal of any unrevoked and  
23 unsuspended license filed before midnight of June 30th of  
24 the year for which such unrevoked and unsuspended  
25 license was issued, accompanied by the applicable  
26 renewal fee, entitles the applicant to continue operating  
27 under his *or her* existing license after its usual expiration  
28 date, if not previously suspended or revoked, and until  
29 such date as he *or she* is notified in writing that the  
30 application has been granted or denied.

31 SEC. 148. Section 9705 of the Business and Professions  
32 Code is amended to read:

33 9705. Upon receipt of the application and fee  
34 specified in Section 9701, the ~~board~~ *department* shall  
35 issue, without examination, to any person who otherwise  
36 qualifies, a temporary salesperson's license, good for a  
37 period of three months from the date of issuance,  
38 irrespective of the fact that the fiscal year may terminate  
39 within such three months. An applicant shall not be

1 entitled to more than one temporary license without  
2 examination.

3 SEC. 149. Section 9709 of the Business and Professions  
4 Code is amended to read:

5 9709. The cemetery licenses of both broker and  
6 ~~salesman~~ *salesperson* shall be prominently displayed in  
7 the office of the broker.

8 The cemetery ~~salesman's~~ *salesperson's* license shall  
9 remain in the possession of the licensed cemetery broker  
10 employer until canceled or until the ~~salesman~~ *salesperson*  
11 leaves the employ of the broker.

12 SEC. 150. Section 9710 of the Business and Professions  
13 Code is amended to read:

14 9710. Immediately upon the ~~salesman's~~ *salesperson's*  
15 withdrawal from the employ of the broker, the broker  
16 shall return the ~~salesman's~~ *salesperson's* license to the  
17 ~~board~~ *department* for cancellation. A license canceled  
18 but not suspended or revoked may be reinstated within  
19 the fiscal year upon receipt of application therefor and  
20 the fee for the reinstatement of the license.

21 SEC. 151. Section 9711 of the Business and Professions  
22 Code is amended to read:

23 9711. Every licensed cemetery broker shall have and  
24 maintain a definite place of business in this state which  
25 shall serve as his *or her* office for the transaction of  
26 business.

27 No cemetery license authorizes the licensee to do  
28 business except from the location for which the cemetery  
29 license was issued.

30 Notice in writing shall be given the ~~board~~ *department*  
31 of change of business location of a cemetery broker,  
32 whereupon the ~~board~~ *department* shall issue a new  
33 cemetery license for the unexpired period. The change or  
34 abandonment of business location without notification to  
35 the ~~board~~ *department* shall automatically cancel the  
36 license theretofore issued.

37 SEC. 152. Section 9712 of the Business and Professions  
38 Code is amended to read:

39 9712. If the applicant for a cemetery broker's license  
40 maintains more than one place of business within the

1 State he *or she* shall apply for and procure an additional  
2 license for each branch office so maintained—by—him.  
3 Every such application shall state the name of the person  
4 and the location of the place of business for which such  
5 license is desired.

6 The ~~board~~ department may determine whether or not  
7 a broker is doing a cemetery brokerage business at or  
8 from any particular location which requires him *or her* to  
9 have a branch office license.

10 SEC. 153. Section 9713 of the Business and Professions  
11 Code is amended to read:

12 9713. Each cemetery broker shall erect and maintain  
13 a sign in a conspicuous place on the premises to indicate  
14 that he *or she* is a licensed cemetery broker and his *or her*  
15 name shall be clearly shown thereon. The size and place  
16 of the sign shall conform to regulations that may be  
17 adopted by the ~~board~~ department.

18 SEC. 154. Section 9714 of the Business and Professions  
19 Code is amended to read:

20 9714. For a violation of any of the provisions of  
21 Sections 9709, 9710, 9711 and 9713, the ~~board~~ department  
22 may temporarily suspend or permanently revoke the  
23 license of the cemetery licensee in accordance with the  
24 provisions of this act relating to disciplinary proceedings.

25 SEC. 155. Section 9715 of the Business and Professions  
26 Code is amended to read:

27 9715. Application for a certificate of authority shall be  
28 made in writing on the form prescribed by the ~~board~~  
29 department and filed at the principal office of the ~~board~~  
30 department. Such application shall be accompanied by  
31 the fee provided for in this act and must show that the  
32 cemetery authority owns or is actively operating a  
33 cemetery in this ~~State~~—state which is subject to the  
34 provisions of the Cemetery Act or that the applicant is in  
35 a position to commence operating a cemetery.

36 SEC. 156. Section 9716 of the Business and Professions  
37 Code is amended to read:

38 9716. The ~~board~~ department may require such proof  
39 as it deems advisable concerning the compliance by such

1 applicant to all the laws, rules, regulations, ordinances  
2 and orders applicable to him.

3 SEC. 157. Section 9717 of the Business and Professions  
4 Code is amended to read:

5 9717. (a) The ~~board~~ *department* shall adopt, and  
6 may from time to time amend, rules and regulations  
7 prescribing standards of knowledge and experience and  
8 financial responsibility for applicants for certificates of  
9 authority. In reviewing an application for a certificate of  
10 authority, the ~~board~~ *department* may consider acts of  
11 incorporators, officers, directors, and stockholders of the  
12 applicant, which shall constitute grounds for the denial of  
13 a certificate of authority under Division 1.5 (commencing  
14 with Section 475).

15 (b) Upon receipt of an application for a certificate of  
16 authority, the ~~board~~ *department* may cause an  
17 investigation to be made of the physical status, plans,  
18 specifications and financing of the proposed cemetery,  
19 and any other qualifications required of the applicant  
20 under this act, and for this purpose may subpoena  
21 witnesses, administer oaths, and take testimony.

22 At the time of the filing of the application required by  
23 this section, the applicant shall pay to the Cemetery Fund  
24 the sum fixed by the ~~board~~ *department* at not in excess  
25 of four hundred dollars (\$400) to defray the expenses of  
26 investigation. In the event the sum shall be insufficient to  
27 defray all of the expenses, the applicant shall within five  
28 days after request therefor deposit an additional sum  
29 sufficient to defray such expenses, provided that the total  
30 sum shall not exceed the sum of nine hundred dollars  
31 (\$900).

32 SEC. 158. Section 9718 of the Business and Professions  
33 Code is amended to read:

34 9718. The ~~board~~ *department* may, in accordance with  
35 its rules and regulations, authorize interments in  
36 cemeteries for which there is no currently valid  
37 certificate of authority outstanding if the ~~board~~  
38 *department* finds that rights to interment therein will  
39 otherwise be impaired. However, nothing in this section  
40 authorizes sales of lots, vaults, or niches by cemeteries for

1 which there is no currently valid certificate of authority.  
2 Interments permitted under this section shall be  
3 conducted by persons authorized by the ~~board~~  
4 *department* in accordance with its regulations, and  
5 Section 9768 shall not be applicable to such interments.

6 The ~~board~~ *department* or its representative shall be  
7 entitled to inspect and copy any cemetery records  
8 necessary to the performance of interments under this  
9 section, and any person having custody of such records  
10 shall permit inspection and copying thereof for such  
11 purpose. The ~~board~~ *department* may apply to the  
12 superior court for the county in which the cemetery is  
13 located for an order temporarily transferring custody of  
14 cemetery records to it for purposes of this section.

15 SEC. 159. Section 9719 of the Business and Professions  
16 Code is amended to read:

17 9719. The ~~board~~ *department* shall inspect the books,  
18 records, and premises of any crematory licensed under  
19 this chapter or any certificate of authority holder  
20 operating a crematory. In making those inspections, the  
21 ~~board~~ *department* shall have access to all books and  
22 records, the crematory building, the cremation chambers  
23 or furnaces, and the storage areas for human remains  
24 before and after cremation, during regular office hours or  
25 the hours the crematory is in operation. No prior  
26 notification of the inspection is required to be given to the  
27 certificate of authority holder or the crematory licensee.  
28 If any certificate of authority holder or any crematory  
29 licensee fails to allow that inspection or any part thereof,  
30 it shall be grounds for the suspension or revocation of a  
31 license or other disciplinary action against the licensee. In  
32 the case of a certificate of authority holder, the  
33 suspension, revocation, or other disciplinary action may  
34 be limited to the operation of the crematory. All  
35 proceedings under this section shall be conducted in  
36 accordance with the provisions of this chapter relating to  
37 disciplinary proceedings.

38 SEC. 160. Section 9720 of the Business and Professions  
39 Code is amended to read:

1 9720. The ~~board~~ *department* shall annually conduct a  
2 minimum of one unannounced inspection of each  
3 licensed crematory.

4 SEC. 161. Section 9726 of the Business and Professions  
5 Code is amended to read:

6 9726. The ~~board~~ *department* may, upon its own  
7 motion, and shall, upon the verified complaint in writing  
8 of any person, investigate the actions of any person  
9 engaged in the business or acting in the capacity of a  
10 cemetery licensee, and may temporarily suspend or  
11 permanently revoke a license at any time where the  
12 licensee, within the immediately preceding three years,  
13 while a cemetery licensee in performing or attempting to  
14 perform any of the acts specified in this act, has been  
15 guilty of any of the following:

16 (a) Making any substantial misrepresentation.

17 (b) Making any false statement of a character likely to  
18 influence or persuade.

19 (c) A continued and flagrant course of  
20 misrepresentation or making of false promises through  
21 cemetery agents or ~~salesmen~~ *salespersons*.

22 (d) Acting for more than one party in a transaction  
23 without the knowledge or consent of all parties thereto.

24 (e) Commingling the money or other property of his  
25 *or her* principal with his *or her* own.

26 (f) The practice of claiming or demanding a fee,  
27 compensation or commission under any exclusive  
28 agreement authorizing or employing a licensee to sell,  
29 buy or exchange cemetery property for compensation or  
30 commission where such agreement does not contain a  
31 definite, specified date of final and complete termination.

32 (g) The claiming or taking by a licensee of any secret  
33 or undisclosed amount of compensation, commission or  
34 profit or the failure of a licensee to reveal to the employer  
35 of such licensee the full amount of such licensee's  
36 compensation, commission or profit under any  
37 agreement authorizing or employing such licensee to sell,  
38 buy or exchange cemetery property for compensation or  
39 commission prior to or coincident with the signing of such  
40 agreement evidencing the meeting of the minds of the

1 contracting parties, regardless of the form of such  
2 agreement, whether evidenced by documents in an  
3 escrow or by any other or different procedure.

4 (h) The use by a licensee of any provision allowing the  
5 licensee an option to purchase in an agreement  
6 authorizing or employing such licensee to sell, buy, or  
7 exchange cemetery property for compensation or  
8 commission, except when such licensee prior to or  
9 coincident with election to exercise such option to  
10 purchase reveals in writing to the employer the full  
11 amount of licensee's profit and obtains the written  
12 consent of the employer approving the amount of such  
13 profit.

14 (i) Any other conduct, whether of the same or a  
15 different character than specified in this section, which  
16 constitutes fraud or dishonest dealing.

17 The misrepresentations and false statements  
18 mentioned in this section include also misrepresentation  
19 and false statements as to other property than that which  
20 the cemetery licensee may be selling or attempting to  
21 sell.

22 SEC. 162. Section 9727 of the Business and Professions  
23 Code is amended to read:

24 9727. The ~~board~~ *department* may suspend or revoke  
25 the license of any cemetery licensee who, within three  
26 years immediately preceding has done any of the  
27 following:

28 (a) Been convicted of a crime substantially related to  
29 the qualifications, functions and duties of such licensee.  
30 The record of conviction, or a certified copy thereof, shall  
31 be conclusive evidence of such conviction.

32 (b) Knowingly authorized, directed, connived at or  
33 aided in the publication, advertisement, distribution, or  
34 circulation of any material false statement or  
35 representation concerning his *or her* business or any  
36 cemetery property offered for sale.

37 (c) Willfully disregarded or violated any of the  
38 provisions of this act relating to cemetery brokerage.

39 (d) Acted or conducted himself *or herself* in a manner  
40 which would have warranted the denial of his *or her*

1 application for a cemetery license, or for a renewal  
2 thereof.

3 SEC. 163. Section 9727.1 of the Business and  
4 Professions Code is amended to read:

5 9727.1. The ~~board~~ *department* may suspend or revoke  
6 the license of any cemetery licensee who procures a  
7 cemetery license, for himself *or herself* or any ~~salesman~~  
8 *salesperson*, by fraud, misrepresentation or deceit. An  
9 action to suspend or revoke a license for a violation of the  
10 provisions of this section shall be commenced within  
11 three years after the discovery by the ~~board~~ *department*  
12 of such violation.

13 SEC. 164. Section 9727.2 of the Business and  
14 Professions Code is amended to read:

15 9727.2. A plea or verdict of guilty or a conviction  
16 following a plea of nolo contendere is deemed to be a  
17 conviction within the meaning of this article. The ~~board~~  
18 *department* may order the license suspended or revoked,  
19 or may decline to issue a license, when the time for appeal  
20 has elapsed, or the judgment of conviction has been  
21 affirmed on appeal or when an order granting probation  
22 is made suspending the imposition of sentence,  
23 irrespective of a subsequent order under the provisions  
24 of Section 1203.4 of the Penal Code allowing such person  
25 to withdraw his *or her* plea of guilty and to enter a plea  
26 of not guilty, or setting aside the verdict of guilty, or  
27 dismissing the accusation, information or indictment.

28 SEC. 165. Section 9728 of the Business and Professions  
29 Code is amended to read:

30 9728. When any ~~salesman~~ *salesperson* is discharged by  
31 his *or her* employer for a violation of any of the provisions  
32 of this article prescribing a ground for disciplinary action,  
33 a verified written statement of the facts with reference  
34 thereto shall be filed forthwith with the ~~board~~  
35 *department* by the employer and, if the employer fails to  
36 notify the ~~board~~ *department* as required by this section,  
37 the ~~board~~ *department* may temporarily suspend or  
38 permanently revoke the cemetery license of the  
39 employer in accordance with the provisions of this act.



1 SEC. 166. Section 9729 of the Business and Professions  
2 Code is amended to read:

3 9729. The ~~board~~ *department* may deny, suspend or  
4 revoke the cemetery license of a corporation as to any  
5 officer or agent acting under its cemetery license, and the  
6 cemetery license of a copartnership as to any member  
7 acting under its cemetery license, without revoking the  
8 cemetery license of the corporation or of the  
9 copartnership.

10 SEC. 167. Section 9730 of the Business and Professions  
11 Code is amended to read:

12 9730. The fees for cemetery licenses at all periods of  
13 the fiscal year is the same as provided in this article. All  
14 cemetery license fees are payable in advance of issuing  
15 the licenses and at the time of filing the application.  
16 Except a temporary ~~salesman's~~ *salesperson's* license, for  
17 which other provision is made, all licenses shall be issued  
18 for the fiscal year and shall expire on June 30th of each  
19 fiscal year at midnight.

20 SEC. 168. Section 9731 of the Business and Professions  
21 Code is amended to read:

22 9731. If a person fails to apply for a renewal of his *or*  
23 *her* license prior to midnight of June 30th of the year for  
24 which the license was issued, no renewal license shall be  
25 issued to him *or her* except upon payment of the renewal  
26 fee for such license plus 50 percent of the renewal fee, but  
27 not more than the renewal fee plus twenty-five dollars  
28 (\$25).

29 No person who fails to renew his *or her* license within  
30 one year of the expiration date can engage in any of the  
31 activities authorized by such a license unless he *or she* first  
32 files the application required for an original license, pays  
33 the original license fee, and otherwise complies with all  
34 of the provisions of this act pertaining to the issuance of  
35 an original license.

36 SEC. 169. Section 9735 of the Business and Professions  
37 Code is amended to read:

38 9735. An original cemetery ~~salesman's~~ *salesperson's*  
39 license is a cemetery license issued to a person who did  
40 not have a cemetery ~~salesman's~~ *salesperson's* or a

1 broker's license either individually or as an officer of a  
2 corporation, or as a member of a copartnership, on June  
3 30th of the fiscal year previous to the fiscal year for which  
4 the ~~salesman's~~ *salesperson's* license is issued.

5 SEC. 170. Section 9736 of the Business and Professions  
6 Code is amended to read:

7 9736. A renewal cemetery ~~salesman's~~ *salesperson's*  
8 license is a cemetery license issued to a person who had  
9 a cemetery ~~salesman's~~ *salesperson's* or a broker's license  
10 either individually or as an officer of a corporation, or as  
11 a member of a copartnership, on June 30th of the fiscal  
12 year previous to the fiscal year for which the ~~salesman's~~  
13 *salesperson's* license is issued.

14 SEC. 171. Section 9737 of the Business and Professions  
15 Code is amended to read:

16 9737. The proceedings under this article shall be  
17 conducted in accordance with Chapter 5 of Part 1 of  
18 Division 2 of Title 2 of the Government Code, and the  
19 ~~board~~ *department* shall have all the powers granted  
20 therein.

21 SEC. 172. Section 9740 of the Business and Professions  
22 Code is amended to read:

23 9740. No person shall dispose of or offer to dispose of  
24 any cremated human remains unless registered as a  
25 cremated remains disposer by the ~~board~~ *department*.  
26 This article shall not apply to any person, partnership, or  
27 corporation holding a certificate of authority as a  
28 cemetery, crematory license, cemetery broker's license,  
29 cemetery ~~salesman's~~ *salesperson's* license, or funeral  
30 director's license, nor shall this article apply to any person  
31 having the right to control the disposition of the cremated  
32 remains of any person or that person's designee if the  
33 person does not dispose of or offer to dispose of more than  
34 10 cremated human remains within any calendar year.

35 SEC. 173. Section 9741 of the Business and Professions  
36 Code is amended to read:

37 9741. Registration shall be on the form prescribed by  
38 the ~~board~~ *department* and shall include, but not be  
39 limited to, the full name of the registrant, business and  
40 residence addresses, description and identification of

1 aircraft or boats which may be used in dispensing  
2 cremated human remains, and the area to be served.  
3 Each registration application shall be accompanied by  
4 the cremated remains disposer fee.

5 SEC. 174. Section 9742 of the Business and Professions  
6 Code is amended to read:

7 9742. All aircraft used for the scattering of cremated  
8 human remains shall be validly certified by the Federal  
9 Aviation Administration. All boats or vessels used for the  
10 scattering of cremated human remains shall be registered  
11 with the Department of Motor Vehicles or documented  
12 by a federal agency, as appropriate. The certification or  
13 registration shall be available for inspection by the ~~board~~  
14 *department*.

15 SEC. 175. Section 9745 of the Business and Professions  
16 Code is amended to read:

17 9745. Each cremated remains disposer shall file an  
18 annual report on a form prescribed by the ~~board~~  
19 *department*. The report shall include, but not be limited  
20 to, the number of cases handled and the area of scattering.  
21 The report shall cover the fiscal year ending on June 30th  
22 and shall be filed with the ~~board~~ *department* no later than  
23 September 30th of each year.

24 SEC. 176. Section 9746 of the Business and Professions  
25 Code is amended to read:

26 9746. All cremated remains disposer registrations  
27 shall expire at midnight on September 30th of each year.  
28 A person desiring to renew his or her registration shall file  
29 an application for renewal on a form prescribed by the  
30 ~~board~~ *department* accompanied by the required fee. The  
31 ~~board~~ *department* shall not renew the registration of any  
32 person who has not filed the required annual report until  
33 he or she has filed a complete annual report with the  
34 ~~board~~ *department*.

35 SEC. 177. Section 9749.5 of the Business and  
36 Professions Code is amended to read:

37 9749.5. A cremated remains disposer shall be subject  
38 to and shall be disciplined by the ~~board~~ *department* in  
39 accordance with Article 6 (commencing with Section

1 9725). Any violation of this article shall also be grounds for  
2 disciplinary action.

3 SEC. 178. Section 9751 of the Business and Professions  
4 Code is amended to read:

5 9751. The original cemetery broker's license fee shall  
6 be fixed by the ~~board~~ *department* at not more than four  
7 hundred dollars (\$400).

8 SEC. 179. Section 9752 of the Business and Professions  
9 Code is amended to read:

10 9752. The original cemetery broker's license fee is  
11 payable at the time of the filing of an application for an  
12 original cemetery broker's license.

13 If the applicant fails the required written examination,  
14 he *or she* may be permitted to take another examination  
15 upon the filing of an application for ~~re-examination~~  
16 *reexamination* and the payment of a ~~re-examination~~  
17 *reexamination* fee. This ~~re-examination~~ *reexamination*  
18 fee shall be fixed by the ~~board~~ *department* at not more  
19 than one hundred dollars (\$100).

20 No part of any original cemetery broker's license fee or  
21 ~~re-examination~~ *reexamination* fee is refundable. It is  
22 deemed earned upon receipt by the ~~board~~ *department*,  
23 whether the accompanying application for license is  
24 complete or incomplete.

25 SEC. 180. Section 9753 of the Business and Professions  
26 Code is amended to read:

27 9753. The annual renewal fee for a cemetery broker's  
28 license shall be fixed by the ~~board~~ *department* at not  
29 more than three hundred dollars (\$300).

30 SEC. 181. Section 9754 of the Business and Professions  
31 Code is amended to read:

32 9754. If the licensee is a cemetery brokerage  
33 corporation, the license issued to it entitles one officer  
34 only, on behalf of such corporation, to engage in the  
35 business of a cemetery broker without the payment of  
36 further fee, such officer to be designated in the  
37 application of the corporation for a license. For each  
38 other officer of a licensed cemetery brokerage  
39 corporation, through whom it engages in the business of  
40 a cemetery broker, the annual renewal fee, in addition to

1 the fee paid by the corporation, shall be fixed by the ~~board~~  
2 *department* at not more than one hundred dollars (\$100).

3 SEC. 182. Section 9755 of the Business and Professions  
4 Code is amended to read:

5 9755. If the licensee is a cemetery brokerage  
6 copartnership, the license issued to it entitles one  
7 member only of the copartnership to engage on behalf of  
8 the copartnership in the business of a cemetery broker,  
9 which member shall be designated in the application of  
10 the copartnership for a license. For each other member  
11 of the copartnership who on behalf of the copartnership  
12 engages in the business of a cemetery broker, the annual  
13 renewal fee, in addition to the fee paid by the  
14 copartnership, shall be fixed by the ~~board~~ *department* at  
15 not more than one hundred dollars (\$100).

16 SEC. 183. Section 9756 of the Business and Professions  
17 Code is amended to read:

18 9756. The cemetery ~~salesman's~~ *salesperson's* license  
19 fee shall be fixed by the ~~board~~ *department* at not more  
20 than thirty dollars (\$30).

21 SEC. 184. Section 9758 of the Business and Professions  
22 Code is amended to read:

23 9758. No part of any original or temporary cemetery  
24 ~~salesman's~~ *salesperson's* license fee is refundable. It is  
25 deemed earned upon receipt by the ~~board~~ *department*,  
26 whether the accompanying application for license is  
27 complete or incomplete.

28 SEC. 185. Section 9759 of the Business and Professions  
29 Code is amended to read:

30 9759. The annual renewal fee for a cemetery  
31 ~~salesman's~~ *salesperson's* license shall be fixed by the ~~board~~  
32 *department* at not more than twenty-five dollars (\$25).

33 SEC. 186. Section 9760 of the Business and Professions  
34 Code is amended to read:

35 9760. For a branch office broker's license, the fee shall  
36 be fixed by the ~~board~~ *department* at not more than one  
37 hundred dollars (\$100).

38 SEC. 187. Section 9761 of the Business and Professions  
39 Code is amended to read:

1 9761. For change of name or of address of licensee on  
2 the records of the ~~board~~ *department*, the fee shall be fixed  
3 by the ~~board~~ *department* at not more than twenty-five  
4 dollars (\$25).

5 SEC. 188. Section 9762 of the Business and Professions  
6 Code is amended to read:

7 9762. For transfer of a ~~salesman's~~ *salesperson's* license  
8 on change of employer, the fee shall be fixed by the ~~board~~  
9 *department* at not more than twenty-five dollars (\$25).

10 SEC. 189. Section 9763 of the Business and Professions  
11 Code is amended to read:

12 9763. For a duplicate license the fee shall be fixed by  
13 the ~~board~~ *department* at not more than twenty-five  
14 dollars (\$25).

15 SEC. 190. Section 9764 of the Business and Professions  
16 Code is amended to read:

17 9764. For reinstatement of a license within the fiscal  
18 year, the fee shall be fixed by the ~~board~~ *department* at not  
19 more than twenty-five dollars (\$25).

20 As used in this section, "reinstatement of a license"  
21 means the reissuance of a canceled cemetery broker's  
22 license, or a cemetery ~~salesman's~~ *salesperson's* license  
23 which was canceled during the year for which it was  
24 issued upon the ~~salesman's~~ *salesperson's* withdrawal from  
25 the employ of a cemetery broker.

26 SEC. 191. Section 9765 of the Business and Professions  
27 Code is amended to read:

28 9765. Every cemetery authority operating a  
29 cemetery shall pay an annual regulatory charge for each  
30 cemetery to be fixed by the ~~board~~ *department* at not  
31 more than four hundred dollars (\$400). In addition to an  
32 annual regulatory charge for each cemetery, an  
33 additional quarterly charge of not more than eight dollars  
34 and fifty cents (\$8.50) for each burial, entombment, or  
35 inurnment, and not more than eight dollars and fifty  
36 cents (\$8.50) for each cremation made during the  
37 preceding quarter shall be paid to the department and  
38 these charges shall be deposited in the Cemetery Fund.  
39 If the cemetery authority performed the cremation and  
40 either the burial, entombment, or inurnment, the total of

1 all additional charges shall be not more than eight dollars  
2 and fifty cents (\$8.50).

3 Notwithstanding any other provision of law, including  
4 any provision contained in the Budget Act of 1996, this  
5 section shall remain in effect until the loans authorized by  
6 Chapter 38, Statutes of 1996, and by Chapter 162, Statutes  
7 of 1996, are repaid, with interest at the rate accruing to  
8 moneys in the Pooled Money Investment Account, but no  
9 later than April 1, 2003, pursuant to a loan repayment plan  
10 approved by the Department of Finance.

11 SEC. 192. Section 9766 of the Business and Professions  
12 Code is amended to read:

13 9766. Upon payment of the charges set forth the  
14 ~~board~~ department shall issue a renewal of the certificate  
15 of authority to the cemetery authority.

16 SEC. 193. Section 9767 of the Business and Professions  
17 Code is amended to read:

18 9767. Failure to pay the charges set forth by Section  
19 9765 of this code prior to February 1st for each year shall  
20 be cause for suspension of the certificate of authority.  
21 Such certificate may be restored upon payment to the  
22 ~~board~~ department of the prescribed charges.

23 SEC. 194. Section 9769 of the Business and Professions  
24 Code is amended to read:

25 9769. All moneys received by the ~~board~~ department  
26 under the provisions of this chapter shall be accounted for  
27 and reported by detailed statements furnished by the  
28 ~~board~~ department to the State Controller at least once a  
29 month, and at the same time such moneys shall be  
30 remitted to the State Treasurer, and, upon order of the  
31 State Controller, shall be deposited in the Cemetery  
32 Fund in the State Treasury, which fund is hereby created.

33 SEC. 195. Section 9780 of the Business and Professions  
34 Code is amended to read:

35 9780. A crematory established, operated, or  
36 maintained, other than by a licensed cemetery authority,  
37 may be operated by a corporation, partnership, or natural  
38 person, provided that a valid crematory license shall have  
39 been issued by the ~~board~~ department.

1 SEC. 196. Section 9781 of the Business and Professions  
2 Code is amended to read:

3 9781. Application for a crematory license shall be  
4 made in writing on the form prescribed by the ~~board~~  
5 *department* and filed at the principal office of the ~~board~~  
6 *department*. Such application shall be accompanied by  
7 the fee provided for in this article and shall show that the  
8 applicant owns or is actively operating a crematory in this  
9 state or that the applicant is in a position to commence  
10 operating such a crematory.

11 SEC. 197. Section 9782 of the Business and Professions  
12 Code is amended to read:

13 9782. The ~~board~~ *department* may require such proof  
14 as it deems advisable concerning the compliance by such  
15 applicant with all the laws, rules, regulations, ordinances,  
16 and orders applicable to the applicant and shall not issue  
17 such crematory license until it has satisfied itself that the  
18 public interest will be served by such applicant.

19 SEC. 198. Section 9783 of the Business and Professions  
20 Code is amended to read:

21 9783. (a) The ~~board~~ *department* shall adopt, and  
22 may from time to time amend, rules and regulations  
23 prescribing standards of knowledge and experience and  
24 financial responsibility for applicants for a crematory  
25 license. In reviewing an application for a crematory  
26 license, the ~~board~~ *department* may consider acts of the  
27 applicant, including acts of incorporators, officers,  
28 directors, and stockholders of the applicant, which shall  
29 constitute grounds for the denial of a crematory license  
30 under Division 1.5 (commencing with Section 475).

31 (b) Upon receipt of an application for a crematory  
32 license, the ~~board~~ *department* may cause an investigation  
33 to be made of the physical status, plans, specifications, and  
34 financing of the proposed crematory, the character of the  
35 applicant, including, if applicable, its officers, directors,  
36 shareholders, or members, and any other qualifications  
37 required of the applicant under this article, and for this  
38 purpose may subpoena witnesses, administer oaths, and  
39 take testimony.



1 At the time of the filing of the application required by  
2 this article, the applicant shall pay to the Cemetery Fund  
3 the sum fixed by the ~~board~~ *department* at not in excess  
4 of four hundred dollars (\$400) to defray the expenses of  
5 investigation. In the event the sum shall be insufficient to  
6 defray all of the expenses, the applicant shall within five  
7 days after request therefor deposit an additional sum  
8 sufficient to defray such expenses, provided that the total  
9 sum shall not exceed the sum of nine hundred dollars  
10 (\$900).

11 SEC. 199. Section 9784 of the Business and Professions  
12 Code is amended to read:

13 9784. No crematory licensee under this article shall  
14 conduct any cremations:

15 (a) Unless the licensee has a written contract with the  
16 person or persons entitled to custody of the remains  
17 clearly stating the location, manner, and time of  
18 disposition to be made of the remains, agreeing to pay the  
19 regular fees of the licensee for cremation, disposition, and  
20 other services rendered, and any other contractual  
21 provisions as may be required by the ~~board~~ *department*.

22 (b) Of any remains more than 24 hours after delivery  
23 of the remains, unless the remains have been preserved  
24 in the interim by refrigeration or embalming.

25 (c) Unless the licensee has a contractual relationship  
26 with a licensed cemetery authority for final disposition of  
27 cremated human remains by burial, entombment or  
28 inurnment of any and all remains which are not lawfully  
29 disposed of or which are not called for or accepted by the  
30 person or persons entitled to the custody and control of  
31 the disposition thereof within 90 days of the date of death.

32 SEC. 200. Section 9785 of the Business and Professions  
33 Code is amended to read:

34 9785. Each crematory licensee shall keep such  
35 records as may be required by the ~~board~~ *department* to  
36 assure compliance with all laws relating to the disposition  
37 of cremated human remains and shall file annually with  
38 the ~~board~~ *department*, a report in the form prescribed by  
39 the ~~board~~ *department*, describing the operations of such  
40 licensee, including the number of cremations made, the

1 disposition thereof, and such other information as the  
2 ~~board~~ department may, from time to time, require.

3 SEC. 201. Section 9786 of the Business and Professions  
4 Code is amended to read:

5 9786. Every crematory licensee operating a  
6 crematory pursuant to a license issued in compliance with  
7 this article shall pay an annual regulatory charge for each  
8 crematory, to be fixed by the ~~board~~ department at not  
9 more than four hundred dollars (\$400). In addition to an  
10 annual regulatory charge for each crematory, every  
11 licensee operating a crematory pursuant to a license  
12 issued pursuant to this article shall pay an additional  
13 charge of not more than eight dollars and fifty cents  
14 (\$8.50) per cremation made during the preceding  
15 quarter, which charges shall be deposited in the  
16 Cemetery Fund.

17 Notwithstanding any other provision of law, including  
18 any provision contained in the Budget Act of 1996, this  
19 section shall remain in effect until the loans authorized by  
20 Chapter 38, Statutes of 1996, and by Chapter 162, Statutes  
21 of 1996, are repaid, with interest at the rate accruing to  
22 moneys in the Pooled Money Investment Account, but no  
23 later than April 1, 2003, pursuant to a loan repayment plan  
24 approved by the Department of Finance.

25 SEC. 202. Section 9787 of the Business and Professions  
26 Code is amended to read:

27 9787. Each crematory for which a crematory license  
28 is required shall be operated under the supervision of a  
29 manager qualified as such in accordance with rules  
30 adopted by the ~~board~~ department. Each such manager  
31 shall be required to successfully pass a written  
32 examination evidencing an understanding of the  
33 applicable provisions of this code and of the Health and  
34 Safety Code of this state.

35 SEC. 203. Section 9789 of the Business and Professions  
36 Code is amended to read:

37 9789. A crematory licensee shall be subject to and  
38 shall be disciplined by the ~~board~~ department in  
39 accordance with Article 6 (commencing with Section  
40 9725).

1 SEC. 204. Section 9880.2 of the Business and  
2 Professions Code is amended to read:

3 9880.2. The following persons are exempt from the  
4 requirement of registration:

5 (a) An employee of an automotive repair dealer if the  
6 employee repairs motor vehicles only as an employee.

7 (b) A person who solely engages in the business of  
8 repairing the motor vehicles of ~~a single~~ *one or more*  
9 commercial, industrial, or governmental ~~establishment,~~  
10 ~~or two or more establishments related by common~~  
11 ~~ownership or corporate affiliation~~ *establishments*.

12 (c) A person who is registered pursuant to Chapter 20  
13 (commencing with Section 9800) and whose work is  
14 limited to the installation or replacement of a motor  
15 vehicle radio, antenna, audio recorder, audio playback  
16 equipment, or burglar alarm.

17 (d) A person whose primary business is the wholesale  
18 supply of new or rebuilt automotive parts who solely  
19 engages in the remachining of individual automotive  
20 parts without compensation for warranty adjustments to  
21 those parts and who does not engage in repairing or  
22 diagnosing malfunctions of motor vehicles or  
23 motorcycles. "Primary business" means the business that  
24 accounts for the majority of the company's gross sales.  
25 "Wholesale supply" means the sale, by a seller who  
26 possesses a California Resale Permit, of automotive parts  
27 to a retailer or jobber for the purpose of resale. However,  
28 a person described in this subdivision, prior to  
29 commencing work, shall do both of the following:

30 (1) Provide a notice containing the bureau's toll-free  
31 telephone number to the customer that the person is not  
32 regulated by the bureau.

33 (2) Provide a written description of the remachining  
34 services to be performed to the customer.

35 SEC. 205. Section 9884 of the Business and Professions  
36 Code is amended to read:

37 9884. (a) An automotive repair dealer shall pay the  
38 fee required by this chapter for each place of business  
39 operated by the dealer in this state and shall register with  
40 the director upon forms prescribed by the director. The

1 forms shall contain sufficient information to identify the  
2 automotive repair dealer, including name, address of  
3 each location, a statement by the dealer that each location  
4 is in an area that, pursuant to local zoning ordinances,  
5 permits the operation of a facility for the repair of motor  
6 vehicles, the dealer's retail seller's permit number, if a  
7 permit is required under the Sales and Use Tax Law (Part  
8 1 (commencing with Section 6001), Division 2, Revenue  
9 and Taxation Code), and other identifying data that are  
10 prescribed by the director. If the business is to be carried  
11 on under a fictitious name, the fictitious name shall be  
12 stated. ~~If the automotive repair dealer is a partnership,~~  
13 ~~identifying data that are prescribed by the director shall~~  
14 ~~be stated for each partner. If the automotive repair dealer~~  
15 ~~is a corporation, data shall be included for each of the~~  
16 ~~officers and directors of the corporation as well as for the~~  
17 ~~individual in charge of each place of the automotive~~  
18 ~~repair dealer's business in this state. To the extent~~  
19 ~~prescribed by the director, an automotive repair dealer~~  
20 ~~shall identify the owners, directors, officers, partners,~~  
21 ~~managers and any other persons who directly of~~  
22 ~~indirectly control or conduct the business.~~ The forms shall  
23 include a statement signed by the dealer under penalty  
24 of perjury that the information provided is true.

25 (b) A state agency is not authorized or required by this  
26 section to enforce a city, county, regional, air pollution  
27 control district, or air quality management district rule or  
28 regulation regarding the site or operation of a facility that  
29 repairs motor vehicles.

30 SEC. 206. Section 9884.3 of the Business and  
31 Professions Code is amended to read:

32 9884.3. Every registration shall cease to be valid ~~on~~  
33 ~~June 30 of each year~~ *one year from the last day of the*  
34 *month in which registration was issued* unless the  
35 automotive repair dealer has paid the renewal fee  
36 required by this chapter.

37 SEC. 207. Section 9886.2 of the Business and  
38 Professions Code is amended to read:

39 9886.2. The money in the Vehicle Inspection and  
40 Repair Fund necessary for the administration of this

chapter and Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code is available to the department, when appropriated for those purposes. ~~The money in the Certification Account, which is hereby created in the Vehicle Inspection and Repair Fund, shall be available pursuant to Chapter 20.5 (commencing with Section 9889.70).~~

SEC. 208. Article 10 (commencing with Section 9889.30) of Chapter 20.3 of Division 3 of the Business and Professions Code is repealed.

SEC. 209. Section 9889.8 of the Business and Professions Code is amended to read:

9889.8. All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision ~~(f)~~ (e) of Section 9889.3, the accusation may be filed within two years after the discovery by the bureau of the alleged facts constituting the fraud or misrepresentation prohibited by such section.

SEC. 210. Section 18740 of the Business and Professions Code is repealed.

~~18740. The commission shall furnish each boxer with a performance card upon which shall be recorded, the number of fights in which the boxer has participated in this state. This information shall be endorsed on the card by the inspector after the boxer has completed the bout. This card shall be presented by the licensee before the bout, or the boxer shall not be permitted to participate in the contest.~~

SEC. 211. Section 15633.5 of the Welfare and Institutions Code is amended to read:

15633.5. (a) Information relevant to the incident of elder or dependent adult abuse may be given to an investigator from an adult protective services agency, a local law enforcement agency, or the bureau of Medi-Cal Fraud *or investigators of the Department of Consumer Affairs, Division of Investigation* who ~~is~~ *are* investigating the known or suspected case of elder or dependent adult abuse.

1 (b) The identity of all persons who report under this  
2 chapter shall be confidential and disclosed only among  
3 adult protective services agencies, long-term care  
4 ombudsman programs, licensing agencies, local law  
5 enforcement agencies, ~~and~~ the bureau, *and the Division*  
6 *of Investigation* to counsel representing an adult  
7 protective services agency, long-term care ombudsman  
8 program, licensing agency, or a local law enforcement  
9 agency, by the bureau to the district attorney in a  
10 criminal prosecution, when persons reporting waive  
11 confidentiality, or by court order.

12 (c) Notwithstanding subdivisions (a) and (b), any  
13 person reporting pursuant to Section 15631 shall not be  
14 required to include his or her name in the report.

